



California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 2. DEPARTMENT OF
FINANCIAL INSTITUTIONS**

**NOTICE OF INTENTION TO AMEND
THE CONFLICT-OF-INTEREST
CODE OF THE DEPARTMENT OF
FINANCIAL INSTITUTIONS**

NOTICE IS HEREBY GIVEN that the Department of Financial Institutions, pursuant to the authority vested in it by section 87306 of the Government Code, proposes to adopt its Conflict-of-Interest Code. The purpose of the code is to implement the requirements of Government Code sections 87300 through 87302, and section 87306 of the Government Code.

The Department of Financial Institutions proposes to amend its Conflict-of-Interest Code to include employee positions that involve the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

This amendment adds the Accounting Administrator I (Supervisor), Staff Services Manager (Business Services), Business Services Officer, Staff Services Analyst (Business Services), Senior Information Systems Analyst (Supervisor), and Chief Security Officer to disclosure category D of the Department of Financial Institutions Conflict-of-Interest Code, and makes other technical changes to reflect the current organizational structure of the Department. Copies of the proposed amendments to the code are available and may be requested from the contact person listed below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than July 20, 2009, or at the conclusion of the public hearing, if any, whichever comes later, to the contact person listed below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or that person's representative requests a public hearing, he or she must do so not later than July 5, 2009, by contacting the contact person listed below.

The Department of Financial Institutions has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the contact person listed below.

The Department of Financial Institutions has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

In making these proposed amendments, the Department of Financial Institutions must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons than the proposed amendments.

All inquiries concerning the proposed amendments and any communication required by this notice should be directed to:

James M. Patten, Senior Counsel
45 Fremont Street, Suite 1700
San Francisco, CA 94105
(415) 263-8514
jpatten@dfi.ca.gov

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

**THE STATE ALLOCATION BOARD PROPOSES
TO ADOPT AND AMEND VARIOUS
REGULATION SECTIONS, TITLE 2,
CALIFORNIA CODE OF REGULATIONS,
RELATING TO LEROY F. GREENE SCHOOL
FACILITIES ACT OF 1998**

**REGULATION SECTIONS PROPOSED FOR
ADOPTION: 1859.148.2 AND 1859.166.2.**

**REGULATION SECTIONS PROPOSED FOR
AMENDMENT: 1859.2, 1859.121, 1859.164.2 AND
1859.197.**

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to adopt and amend the above-referenced regulation sections contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to adopt and amend the above-referenced regulation sections under the authority provided by Sections 17070.35, 17075.15, 17078.64 and 17078.72(k) of the Education Code. The proposals interpret and make specific reference to Sections 17076.10, 17077.40, 17077.42, 17077.45, 17078.25, 17078.52, 17078.53, 17078.58 and 17078.72 of the Education Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

The SAB, at its January 28, 2009 meeting, adopted proposed emergency regulatory amendments to the SFP to help prevent school bond apportionments from expiring during the State's current fiscal crisis. The proposed amendments respond to the Pooled Money Investment Board's (PMIB's) action on December 17, 2008, to temporarily halt disbursements for capital projects, including the construction of public schools. The SAB will be authorized to find preliminary apportionments "inactive" under the:

- Critically Overcrowded School Facilities Program (COS Program), and
- Charter School Facilities Program (CSFP).

This will temporarily suspend the time period for conversion to final apportionments, and help prevent those preliminary apportionments from being rescinded due to the time limit expiring to convert to final apportionments. This period is four years from the date of the preliminary apportionment plus a possible one time one-year extension. When the SAB finds that State financing is available for bond-funded projects, the time period will resume as it existed on December 17, 2008, and school districts can move forward toward converting to final apportionments.

A summary of the proposed regulatory changes follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments add the definitions of "Inactive Preliminary Apportionment" (pertaining to the COS Program) and "Inactive Preliminary Charter School Apportionment" (pertaining to the CSFP). Each definition requires SAB approval, and applies to preliminary apportionments:

- approved prior to December 17, 2008, and
- for which a complete request to convert to a Final Apportionment has not been made, and
- for which the time limit to apply for Final Apportionment will expire on or after December 17, 2008.

Existing Regulation Section 1859.121 describes the time periods for SAB acceptance and approval of applications for SFP Joint-Use project funding. The proposed amendment clarifies that apportionments are subject to the availability of financing provided by the PMIB for bond-funded projects.

Proposed adoption of Regulation Section 1859.148.2 authorizes the SAB to determine a State fiscal emergency or crisis exists for the purpose of finding Preliminary Apportionments under the COS Program to be "Inactive," as defined in Section 1859.2. This finding would suspend, as of December 17, 2008, the time period for an applicant to convert to a Final Apportionment. This period to convert is four years from the date of the Preliminary Apportionment plus a possible one-year extension, as set forth in Education Code Section 17078.25(a) and (b). Once the SAB finds that State bond funds are available for the project, the balance of this time period to convert to a Final Apportionment shall resume, as it existed on December 17, 2008. This regulation section will sunset on January 1, 2010.

Existing Regulation Section 1859.164.2 describes criteria for charter schools with Preliminary Charter School Apportionments under the CSFP to request the separate advance release of funds for either design costs or site acquisition for their project. The proposed amendment clarifies that apportionments are subject to

the availability of financing provided by the PMIB for bond-funded projects.

Proposed adoption of Regulation Section 1859.166.2 authorizes the SAB to determine a State fiscal emergency or crisis exists for the purpose of finding Preliminary Charter School Apportionments under the CSFP to be "Inactive," as defined in Section 1859.2. This finding would suspend, as of December 17, 2008, the time period for an applicant to convert to a Final Charter School Apportionment. This period to convert is four years from the date of the Preliminary Charter School Apportionment plus a possible one-year extension, as set forth in Education Code Section 17078.25(a) and (b). Once the SAB finds that State bond funds are available for the project, the balance of this time period to convert to a Final Charter School Apportionment shall resume, as it existed on December 17, 2008: This regulation section will sunset on January 1, 2010.

Existing Regulation Section 1859.197 sets forth the criteria for fund releases under the Career Technical Education Facilities Program. The proposed amendment clarifies that for applicants requiring a loan for their entire matching share of project costs, the early release of ten percent of the grant amount to the applicant is subject to the availability of financing provided by the PMIB for bond-funded projects.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

- There will be no impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding school facility projects.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than July 20, 2009, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Robert Young, Regulations
Coordinator

Mailing Address: Office of Public School
Construction
1130 K Street, Suite 400
Sacramento, CA 95814

E-mail Address: robert.young@dgs.ca.gov

Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 445-0083. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 322-1043.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in strikeout/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.

4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

**THE STATE ALLOCATION BOARD PROPOSES
TO ADOPT REGULATION SECTION 1859.96
AND AMEND REGULATION SECTIONS 1859.2
AND 1859.90, TITLE 2, CALIFORNIA CODE OF
REGULATIONS, RELATING TO LEROY F.
GREENE SCHOOL FACILITIES ACT OF 1998**

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to adopt and amend the above-referenced regulation sections contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if

no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to adopt and amend the above-referenced regulation sections under the authority provided by Section 17070.35 of the Education Code. The proposals interpret and make specific reference to Sections 17070.35, 17072.12, 17072.30, 17072.32, 17074.15, 17074.16, 17076.10, 17077.40, 17077.42 and 17077.45 of the Education Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

The SAB, at its January 14, 2009 meeting, adopted emergency regulatory amendments to the SFP to help prevent school bond apportionments from expiring during the State's current fiscal crisis. The proposed amendments respond to the Pooled Money Investment Board's temporary halt of disbursements for capital projects, including the construction of public schools. The SAB will be authorized to designate apportionments as "inactive" to relieve school districts from meeting the 18-month time limit for the release of their SAB-approved apportionments.

A summary of the proposed regulatory changes follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments add the definition of "Inactive Apportionment," which requires SAB approval; and applies to apportionments approved by the SAB prior to December 17, 2008, for which State bond funds have not yet been released, and for which the 18-month time limit for the district to request the release of State funds occurs on or after December 17, 2008.

Existing Regulation Section 1859.90 specifies the process for school districts to request the release of funds for SAB-approved apportionments, and requires

that their requests be submitted within 18 months of the SAB apportionment approval. The proposed amendments make this Section inapplicable for "Inactive Apportionments" until such time as State bond funds become available.

Proposed adoption of Regulation Section 1859.96 sets forth criteria for the suspension of the 18-month time limit for school districts to request the release of funds for SAB-approved apportionments, upon SAB approval of an "Inactive Apportionment" for the project, and with the suspension lasting from December 17, 2008 until the SAB finds that State bond funds are available for the project. Clarification is also added that apportionments impacted by this Section remain "full and final" pursuant to Education Code Section 17070.63. This regulation section will become inoperative on January 1, 2010.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.

- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding school facility projects.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than July 20, 2009, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Robert Young, Regulations
Coordinator

Mailing Address: Office of Public School
Construction
1130 K Street, Suite 400
Sacramento, CA 95814

E-mail Address: robert.young@dgs.ca.gov

Fax No.: (916) 445–5526

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 445–0083. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 322–1043.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO AMEND REGULATION SECTIONS 1859.129 AND 1859.197, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation sections contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation sections under the authority provided by Sections 17070.35, 17075.15 and 17078.72(k) of the Education Code. The proposals interpret and make specific reference to Sections 17076.10, 17077.40, 17077.42, 17077.45 and 17078.72 of the Education Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

The State Allocation Board (SAB), at its February 25, 2009 meeting, adopted emergency regulatory amendments to assist school districts during the State's current fiscal crisis. The SFP Joint-Use Program and Career Technical Education Facilities Program (CTEFP) require districts to file Division of the State Architect (DSA) and California Department of Education (CDE) approved plans within 12 months of SAB approval or the projects are automatically rescinded. These emergency regulations will allow the SAB to suspend/extend this deadline by up to 12 months, which will help to protect school districts from having their SFP apportionments expire during the current fiscal crisis.

The Pooled Money Investment Board (PMIB), on December 17, 2008, temporarily halted disbursing funds from the State's Pooled Money Investment Account for capital projects, including the construction of public schools. The PMIB action places school districts with apportionments approved by the SAB before December 17, 2008 in jeopardy of not meeting the time limits to submit approved construction plans to the OPSC under the SFP Joint-Use Program and CTEFP.

The proposed emergency amendments authorize the SAB to "suspend" (Joint-Use Program)/"extend" (CTEFP) for up to 12 months the one-year time limit from date of apportionment/reservation of funds for applicants to submit to the OPSC the necessary project approvals from the DSA and the CDE. The proposed emergency amendments ensure that school districts in these two programs can continue to meet statutory and regulatory requirements during this interruption of State bond funding. The proposed amendments will sunset on January 1, 2010.

A summary of the proposed regulatory changes follows:

Existing Regulation Section 1859.129 sets forth time limits on apportionments under the SFP Joint-Use Program for Type I and Type II Joint-Use projects. Currently, Type II Joint-Use projects that are not part of a qualifying SFP Modernization project must submit the necessary plans and specifications approvals by the DSA and the CDE to the OPSC within one year from the

date of apportionment. The proposed amendment authorizes the SAB to determine that there is a fiscal emergency or crisis, and find that a project has an "Inactive Apportionment," and that the district's ability to submit completed plans to the DSA has been impacted, and that the district will no longer be able to meet the approval requirement in Education Code Section 17077.45(c), and thereby the SAB may suspend the 12-month time limit for submittal of the DSA and CDE approved plans and specifications for a period not to exceed 12 months. The proposed amendment will sunset on January 1, 2010.

Existing Regulation Section 1859.197 sets forth the criteria for fund releases under the CTEFP. Currently, applicants are allowed one year from the date of apportionment to submit to the OPSC necessary project approvals from the DSA and the CDE. The proposed amendment authorizes the SAB to determine that there is a fiscal emergency or crisis and grant up to a 12-month extension of this submittal period for projects apportioned as a reservation of funds. The proposed amendment will sunset on January 1, 2010.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.

- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding school facility projects.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than July 20, 2009, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Robert Young, Regulations
Coordinator

Mailing Address: Office of Public School
Construction
1130 K Street, Suite 400
Sacramento, CA 95814

E-mail Address: robert.young@dgs.ca.gov

Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 445-0083. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 322-1043.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in strikeout/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

TITLE 3. FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) is proposing to take the action described in the Informative Digest. A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than **15 days prior to the close of the written comment period.** Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person beginning **June 5, 2009 and ending at 5:00 p.m. on July 20, 2009.** Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 407, 36601, and 36807, Food and Agricultural Code, and to implement, interpret or make specific sections 32513, 33704, 33704.5, 33704.7, 33704.8, 33763, 33764, 33765, 33766, 34008, 35011, 35016, 35221, 36605, 36802, 36806, 36861, 36951, 36952 and 36991, of said Code, the Department proposes to adopt sections 429 and 430, and amend section 441 of Article 5, of Chapter 1, Division 2, of Title 3 of the California Code of Regulations, as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law, section 36601 of the Food and Agricultural Code, authorizes the Department to adopt, by regulation, quality standards that are necessary for any product defined in statute, as specified, to provide dairy products to the consumers of this state of the highest possible quality.

Existing law, section 36807 of the Food and Agricultural Code, authorizes the Department to specify, by regulation, the use of wholesome, edible dairy products as permissible ingredients in frozen dairy products, in addition to those for which standards are provided for under the Food and Agricultural Code for such frozen dairy products.

In compliance with sections 36601 and 36807, the Department proposes to adopt sections 429 and 430, and amend section 441 of Article 5 (Frozen Dairy Products), of Chapter 1, Division 2, of Title 3 of the California Code of Regulations. This proposal specifies the standards for the manufacturing of frozen dairy products. It pertains to certain semi-frozen milk products plants and frozen milk products plants that do not have pasteurization capability on site.

Comparable Federal Regulations

There are comparable federal regulations for standards and definitions for dairy products in 21 CFR Part 135 and federal labeling regulations for dairy products in 21 CFR Part 101. However, the Department may, by regulation, adopt quality standards for dairy products and specify permissible ingredients for frozen dairy products in accordance with Food and Agricultural Code sections 36601 and 36807.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 7500–17630 Require Reimbursement: None

Business Impact: The Department has made an initial determination that the proposed regulatory action will not have any significant statewide adverse economic impact directly affecting California businesses including the ability of California businesses to compete with businesses in other states. This proposal pertains to certain manufacturers of semi-frozen milk products and frozen milk products plants that do not have pasteurization capability on site. This proposal does not require businesses to utilize the option of using dry powder over liquid mix in the manufacture of frozen dairy products; however, the option may reduce costs to businesses as the dry powder may cost less than liquid mix and could represent a cost savings.

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

Cost Impacts on Private Persons or Entities: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

This proposal pertains to semi-frozen milk products and frozen milk products plants that do not have pasteurization capability on site; however, the Department does not track the number of those plants that may be considered small businesses. However, if some plants are operating as small businesses in California, then the Department must determine that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative which is considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the hearing (if a hearing is requested) or during the written public comment period.

INITIAL STATEMENT OF REASONS

The Department has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained by contacting the persons named below or by accessing the Department's website as indicated below in this Notice.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below.

Any person may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations, or any written comments, facsimiles, or electronic mail concerning this proposal are to be addressed to the following:

Kristen Dahl, Agriculture Program Supervisor
Department of Food and Agriculture
Milk and Dairy Food Safety Branch
1220 N Street, Room A-170
Sacramento, CA 95814
Phone: (916) 654-0773
Fax: (916) 653-7512
E-mail: KDahl@cdfa.ca.gov

The backup contact person is:

Nancy Grillo, Associate Analyst
Department of Food and Agriculture
Animal Health and Food Safety Services
1220 N Street, Room A-114
Sacramento, CA 95814
Phone: (916) 651-7280
Fax: (916) 653-4249
E-mail: NGrillo@cdfa.ca.gov

Website Access:

Materials regarding this proposal can be found by accessing the following Internet address: <http://www.cdfa.ca.gov/ahfss/regulations.html>.

TITLE 4. CALIFORNIA GAMBLING CONTROL COMMISSION

NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING CONCERNING MINIMUM INTERNAL CONTROL STANDARDS (MICS) FOR GAMBLING ESTABLISHMENTS: CHECKS, CREDIT AND ATMS

CGCC-GCA-2009-05-R

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest. Any interested person, or his or her authorized representative, may present statements or arguments orally or in writing relevant to the action proposed at a public hearing to be held at 10:00 a.m. on July 21, 2009, at 2399 Gateway Oaks Drive, First Floor Hearing Room, Sacramento, CA 95833-4231.

WRITTEN COMMENT PERIOD

Written comments relevant to the proposed regulatory action, including those sent by mail, facsimile, or e-mail, may be submitted to the Commission at any time during the public comment period, or may be received by the Commission at the above referenced hearing. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than 5:00 p.m. on July 21, 2009**. Written comments not submitted at the hearing should be directed to one of the individuals designated in this notice as a contact person. **Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.**

ADOPTION OF PROPOSED ACTION

After the close of the public comment period, the Commission, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are suffi-

ciently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 19811, 19823, 19840, 19841(g), 19841(o), 19841(q), 19901, 19905 and 19920 of the Business and Professions Code; and to implement, interpret or make specific Sections 19801, 19841(g), 19841(o), 19841(q), 19901, 19905 and 19920 of the Business and Professions Code; the Commission is proposing to adopt the following changes to Chapter 7 of Division 18 of Title 4 of the California Code of Regulations:

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

INTRODUCTION:

The Gambling Control Act (Act)¹ provides the Commission with jurisdiction over controlled gambling and all activity that is related to the conduct of controlled gambling. The Act assigns the Commission with the responsibility of assuring that gambling licenses are not issued to, or held by, unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.² In particular, Business and Professions Code section 19801(n) is a statement of legislative intent, wherein the legislature declares that keeping records of cash and credit transactions may be helpful in criminal and regulatory investigations. Further, the Commission is tasked to adopt regulations, which, among other things, would govern the extension of credit, the cashing, deposit and redemption of checks or other negotiable instruments, and the verification of patron identification in monetary transactions.³

Industry representatives have indicated to the Commission that allowing patrons to use checks or lines of credit minimizes the amount of cash a patron carries and therefore should be allowed for reasons of personal security (preventing such ills as “follow-home robberies”). The Legislature clearly contemplated allowing checks to be cashed and extensions of credit by mandat-

ing the Commission to adopt regulations regarding such and by mandating gambling establishments (cardrooms) to forward copies of all dishonored or uncollectible checks to the Bureau of Gambling Control (Bureau) on a quarterly basis.⁴

SPECIFIC PROPOSAL:

Section 12388 was originally adopted by the Commission at a meeting on January 8, 2009. At that meeting, it was agreed that this regulation would not take effect until July 8, 2009. This delay in effective date was to allow time for the gaming industry to adjust to the requirements of the regulations, and for Commission staff to develop minor changes to the regulations that were requested by the gaming industry at the January 8th meeting.

These proposed regulations fulfill the Commission’s commitment to consider various cleanup amendments to Section 12388 relating to credit and check cashing.

EXISTING LAW:

Section 12388(a) currently prohibits cardrooms from extending credit to a gambling business or third party provider of proposition player services (TPPS), when that credit is to be used to play a game that has a player-dealer position.

Section 12388(a)(2) currently requires licensees, prior to extending credit to a patron, to ensure that the patron is credit worthy by assessing the patron’s credit information on a credit application, credit report, or previous credit transaction.

Section 12388(a)(6) currently requires that a copy of any consumer credit report obtained by the licensee be kept on file with the cardroom.

Section 12388(c) currently prohibits cardrooms from extending additional credit to a person who is delinquent in their existing loan payments by more than 90 days.

Section 12388(f) currently prohibits a cardroom from allowing a patron to redeem, reclaim or repurchase an un-deposited personal check and replace it with another personal check, unless the patron is approved for credit and the amount of the check to be replaced is within the patrons approved credit limit.

Section 12388(g)(1)(E) currently requires that checks be made payable to the cardroom; or in the case of a third party check, endorsed over to the cardroom.

Section 12388(g)(2) currently states that, if a cardroom cashes checks for patrons, they must examine an unexpired government-issued photo identification of the patron. If the patron has not been approved for credit, identification information must also be recorded. If the patron’s identification information is already on file with the licensee, which includes a photo of the patron,

¹ Business and Professions Code, section 19800 et seq.

² Business and Professions Code, section 19823.

³ Business and Professions Code, sections 19841 and 19905.

⁴ Business and Professions Code, subsections (d), (g) & (q) of section 19841.

then retrieval and examination of this file would satisfy the provisions of this paragraph.

EFFECT OF REGULATORY ACTION:

This proposed action is for the purpose of fulfilling a commitment to the gaming industry to consider clean up amendments to Section 12388. These amendments strive to accommodate industry concerns, while simultaneously allowing the Commission and the Bureau to achieve their oversight responsibilities under the Act.

This proposed action will make changes in Chapter 7 of Division 18 of Title 4 of the California Code of Regulations. Specifically, Article 3 of Chapter 7 would be amended as follows:

The amendments to Section 12388(a) would specify that credit prohibitions apply to an *owner, supervisor, player or other employee* of a gambling business or TPPS, and only when the TPPS is under *contract* with that cardroom. These changes would also specify that a cardroom cannot extend credit to a house prop player when the credit is to be used in a game with a *player-dealer position*.

The amendments to Section 12388(a)(2) would clarify that a cardroom must *verify* applicant information and *assess* the applicant's credit worthiness before granting credit to a patron. These changes would also allow a cardroom to use the *previous credit transactions* method of approval *only* when a patron actually has a credit history with that cardroom. Finally, these changes would delete the word *positively* when referring to the requirement that the cardroom identify credit applicants.

The amendments to Section 12388(a)(6) would require that a copy of a patron's credit report be kept on file with the cardroom: only if the credit report option, pursuant to subparagraph (B) of paragraph (2), was used to approve the credit; and only for as long as that patron's credit account is open.

The amendments to Section 12388(c) would require that a determination of payment delinquency be based on the terms of the *original credit agreement*, preventing the cardroom from changing the terms to avoid a delinquency.

The amendments to Section 12388(f) would allow cardrooms to accept a replacement check for up to two days from the time the original check was written, without credit approval. These changes would also permit patrons to replace *dishonored* checks, without a time limit.

The amendments to Section 12388(g)(1)(E) would delete the requirement that a check be made payable to the cardroom. This change would leave subparagraph (E) with only the requirement that third party checks be endorsed over to the cardroom, allowing regular checks to be made payable to *cash*.

The amendments to Section 12388(g)(2) would delete a requirement that a patron's identifying information retrieved from the cardroom's files contain a *photo* of the patron. These changes would also exempt the cardroom from examining photo identification if the patron is already approved for either credit or *check cashing*.

FISCAL IMPACT ESTIMATES

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:

None.

NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:

None.

MANDATE IMPOSED ON LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:

None.

COST TO ANY STATE OR LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:

None.

IMPACT ON BUSINESS:

The Commission has made an initial determination that the proposed regulatory changes will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

IMPACT ON JOBS/NEW BUSINESSES:

The Commission has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

Some cardrooms may have to modify their internal policies or control mechanisms to comply with these regulations, but this one-time cost would be minimal. Many cardrooms already have compliant rules in place or are forbidden from offering credit by local ordinance, so no additional costs would be incurred as a result of these regulations.

EFFECT ON HOUSING COSTS:

None.

EFFECT ON SMALL BUSINESS:

Some cardrooms may be small businesses; the cost effect on these cardrooms are the same as that addressed

under “Cost Impact on Representative Private Person or Business.”

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

INITIAL STATEMENT OF REASONS, INFORMATION AND TEXT OF PROPOSAL

The Commission has prepared an Initial Statement of Reasons and the exact language for the proposed action and has available all the information upon which the proposal is based. Copies of the language and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Commission at 2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231.

AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS

All the information upon which the proposed action is based is contained in the Rulemaking File that will be available for public inspection and copying at the Commission’s office throughout the rulemaking process. Arrangements for inspection and/or copying may be made by contacting the backup contact person named below.

Upon its completion, the Final Statement of Reasons will also be available. A copy of the Final Statement of Reasons may be obtained, once it has been prepared, by making a written request to one of the contact persons named below or by accessing the Commission’s Web site listed below.

CONTACT PERSONS

All comments and inquiries concerning the substance of the proposed action should be directed to the following **primary** contact person:

James B. Allen, Regulatory Actions Manager
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 263-4024
Fax: (916) 263-0499
E-mail: Jallen@cgcc.ca.gov

Requests for a copy of the Initial Statement of Reasons, proposed text of the regulation, modified text of the regulation, if any, or other technical information upon which the proposed action is based should be directed to the following **backup** contact person:

Joy Calkin, Staff Services Analyst
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 263-0700
Fax: (916) 263-0452
E-mail: Jcalkin@cgcc.ca.gov

WEB SITE ACCESS

Materials regarding this proposed action are also found on the Commission’s Web site at www.cgcc.ca.gov.

TITLE 10. DEPARTMENT OF INSURANCE

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, Suite 1700
Sacramento, California 95814

NOTICE OF PROPOSED ACTION

NOTICE DATE: June 5, 2009
REGULATION FILE: REG-2007-00054

SUBJECT OF PROPOSED RULEMAKING

Standards for Health History Questionnaires in Health Insurance Applications; Pre-Issuance Medical Underwriting Requirements; Rescission of Health Insurance Policies and Agent Attestation Requirements Regarding Assistance with Submission of Health Insurance Applications

The Insurance Commissioner proposes to adopt the regulations described below after considering comments from the public. The Commissioner proposes to

add to Title 10, Chapter 5, Subchapter 2 of the California Code of Regulations the new Article 11: Standards for Health History Questionnaires in Health Insurance Applications, Pre-Issuance Medical Underwriting and Rescission of Health Insurance Policies, consisting of new Sections 2274.70, 2274.71, 2274.72, 2274.73, 2274.74, 2274.75, 2274.76, 2274.77, 2274.78 and 2274.79. The proposed regulations apply to all health insurance policies as defined in Section 106(b) of the Insurance Code. The regulations set forth standards for health insurers affecting the medical underwriting process that precedes the issuance of an individual health insurance policy, standards for the Commissioner's approval of questions which may be included on a health history questionnaire that is part of a health insurance application, attestation requirements for agents assisting applicants in submission of health insurance applications, standards for post-issuance rescission investigations conducted by health insurers and documentation requirements for business processes related to medical underwriting, claims handling, rescission investigations and related matters.

PUBLIC HEARING

The Commissioner will hold a public hearing to provide all interested persons an opportunity to present statements or arguments, either orally or in writing, with respect to this regulation, as follows:

Date and time: Monday, July 20, 2009 at 10:00 a.m.

Location: Administrative Hearing Bureau
Hearing Room
California Department of
Insurance
45 Fremont Street, 22nd Floor
San Francisco, California 94105

The hearing will continue on the date noted above until all testimony has been submitted or 4:00 p.m., whichever is earlier.

PRESENTATION OF WRITTEN COMMENTS; CONTACT PERSONS

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end at 5:00 p.m. on July 20, 2009. Please direct all written comments to the following contact person:

Andrea Rosen, Staff Counsel
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
Telephone: (916) 492-3508

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Joel Laucher
California Department of Insurance
45 Fremont Street, 22nd Floor
San Francisco, CA 94105
Telephone: (415) 538-4381

DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Insurance Commissioner, addressed to the contact persons at her address listed above, no later than 5:00 p.m. on July 20, 2009. Any written materials received after that time may not be considered.

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: rosena@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of Andrea Rosen and sent to the following facsimile number: (916) 322-1925. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.**

AUTHORITY AND REFERENCE

The proposed regulations will implement, interpret and make specific the provisions of Insurance Code sections 106, 380, 730, 734, 796.04, 10113, 10119.3, 10291.5, 10380, 10381.5 and 10384. Insurance Code sections 790.10, 10119.3, 10291.5, 10384, 12921 and 12926 provide authority for this rulemaking, as do the following decisions of the California Supreme Court: *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), and *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994).

INFORMATIVE DIGEST

SUMMARY OF EXISTING LAW AND POLICY
STATEMENT OVERVIEW

Existing law provides for regulation of health insurers, individual health insurance policies and agents who sell health insurance policies by the California Department of Insurance. Insurers offering individual health insurance policies for sale require an individual seeking health insurance coverage to complete and submit an application for individual health insurance coverage. Agents who are licensed by the Department of Insurance often assist applicants in a variety of ways in submission of their applications to the insurers who sell individual health insurance policies. As of January 1, 2009 Insurance Code Section 10119.3 requires agents who assist applicants in the submission of an application for health insurance coverage to make an agent attestation, stating and confirming their assistance to an applicant. The agent's attestation may be included on the written individual health insurance application submitted to the insurer for consideration or separately if the health insurance application is submitted electronically. The agent's attestation is intended to require the agent to state and confirm to the insurer whether the agent has assisted the applicant in submission of the health insurance application.

Existing law requires health insurers to submit the form they intend to use for an individual's application for health insurance, which includes a detailed health history questionnaire, to the Insurance Commissioner for review and approval. This review and approval occurs in conjunction with the Commissioner's review of proposed health insurance policy forms. Current law allows the Commissioner to reject a proposed individual health history questionnaire, which is considered part of the policy itself, if the questions are unintelligible, uncertain, ambiguous, abstruse or likely to mislead the applicant. Current law requires health history questions to be clear and unambiguous and limited to what is reasonably necessary for the insurer to conduct medical underwriting of the application. Current law requires any other writings related to the policy, such as an application for health insurance coverage, to be a part of the insurance policy which is the contract. Current law does not allow any other writings to be incorporated by reference; rather they must be attached to the policy to be considered part of the entire insurance contract. Existing insurance law requires that the completed individual health insurance application for coverage be attached to the policy when it is issued and delivered to the insured, if the insurer is to retain the right to rely on

any statements made by the insured in the insured's individual health insurance application.

Insurance Code Section 10384 prohibits postclaims underwriting. Existing law prohibits rescission, cancellation or limitation of a health insurance policy that has been issued *unless* the insurer has fully accomplished both of the following tasks before the policy is issued: (1) completing medical underwriting and (2) resolving all reasonable questions arising from written information submitted on or with an application. Rescission refers to the retroactive cancellation of an insurance policy back to the first day the policy was effective. Insurance Code Section 10384 establishes the timeline for an insurer to complete medical underwriting and resolve all reasonable questions arising from the written information such as the health history questionnaire submitted with the individual's application. Insurers must complete all of their medical underwriting of the individual's application for health insurance coverage *before* issuing a policy; insurers may not wait until *after* issuing the policy to complete medical underwriting of the insured.

Existing law does not allow an insurer to deny payment of claims under an insured's policy based on the insurer's assertion that the insured made a false statement in the application for coverage *unless* the insurer has attached a copy of the individual's original application for health insurance to the insurance policy at the time the policy is delivered to the insured.

Existing law prohibits certain enumerated acts that are considered unfair claims settlement practices. Medical claims cannot languish indefinitely while an insurer conducts a rescission investigation; they must be processed according to existing statutory and regulatory requirements applicable to claims handling. One goal of the proposed regulations is to require timely, reasonable and continuing notice to affected insureds and providers when an insurer commences a rescission investigation and claims payments are involved. Insureds are typically unaware that an insurer is conducting an investigation to determine whether to rescind an insured's coverage until claims for covered services are submitted and possibly denied for lack of coverage.

The California Insurance Commissioner has broad authority to conduct extensive examinations of an insurer's business including but not limited to all documents used in the transaction of such business, claims files, underwriting policies, procedures and forms, computer software programs used in any aspect of the insurer's business processes, vendors who supply information used by insurers and any external sources of information used to make underwriting decisions or inform the insurer who is evaluating a prospective risk of insuring an individual who has applied for health insurance coverage. Existing law imposes certain documen-

tation requirements that allow for the Commissioner's examinations to be conducted in a manner necessary to determine compliance with existing insurance statutes and regulations including specific document retention requirements. The proposed regulations specify which kinds of documents related to the initial underwriting process, as well as to any rescission investigations an insurer might undertake, must be retained for the Commissioner's examination.

Existing laws allow for insurers to rescind, cancel or limit insurance policies issued to individuals but an insurer's right to rescind, cancel or limit an individual health insurance policy once issued is limited. Statutory and case law govern the standard under which such rescissions are evaluated by insurers before being executed. In *Thompson v. Occidental Life Insurance Company* (1973) 9 Cal.3d 904, the Supreme Court held that an applicant must have knowledge of the health history information sought and must appreciate the significance of the information requested by the insurer. The burden of proof is on the insurer to demonstrate that the applicant had such knowledge, appreciated the significance of the health history questions and made material misrepresentations or omissions in their health history statements.

EFFECT OF PROPOSED ACTION

The proposed regulations clarify and make specific current insurance code statutes governing the Commissioner's evaluation of the clarity and simplicity of questions on a health history questionnaire intended to be used for medical underwriting by the insurer. The regulations will have the effect of prohibiting insurers from rescinding, cancelling or limiting an insurance contract unless they can meet the standards set for avoiding prohibited postclaims underwriting. The effect of these proposed regulations is to make unambiguous the type of conduct that constitutes complete medical underwriting and resolving all reasonable questions which arise from written information submitted on or with the application. The proposed regulations will have the effect of sharpening insurers' understanding of legal requirements regarding the business processes insurers must follow for completion of medical underwriting, as defined, before issuing a policy. However, if an insurer has not completed medical underwriting, as defined, prior to policy issuance, the regulations will prohibit the insurer from subsequently cancelling, rescinding or limiting the policy in question, unless it is shown that the applicant committed fraud when completing the application.

The proposed regulations define the conduct which constitutes prohibited postclaims underwriting and set

detailed standards that insurers must meet before they can legally rescind an individual's health insurance coverage. The proposed regulations set forth standards for the use of external, objective sources of health information for use by insurers in the medical underwriting of a health insurance application for coverage. The proposed action encourages, but does not require, the use of a Personal Health Record—an innovative objective tool that can be very useful in the medical underwriting of an application by an insurer. The proposed action requires insurers to evaluate an individual's responses to health history questionnaire using a reasonable layperson standard in recognition of the intrinsically specialized, clinical nature of most health history questions in an individual health insurance application. The effect of the proposed regulations will be to encourage insurers to more tightly align their pre-issuance medical underwriting activities and decisions regarding information gathering to the specific requirements of their underwriting guidelines.

The proposed regulations specify the documents that must be maintained and retained for the Commissioner's market conduct examination of the wide range of business processes governed by these regulations.

The proposed regulations enumerate the circumstances under which an agent must provide an attestation regarding the agent's assistance in submitting an application. In recognition that the overwhelming majority of individual health insurance applications are submitted online via a web site, often one set up by health insurance agents, the proposed action sets specific requirements for an agent's attestation in this circumstance. The effect of the proposed regulations is to establish notification and attestation requirements when an applicant submits an application for health insurance directly to the insurer via an agent's web site. The proposed regulation requires an agent to attest to the fact that the agent *did not* assist when an applicant submits an application directly to the insurer using the agent's web site and the agent has no contact whatsoever with the applicant prior to the issuance of the policy. The regulation enumerates the types of assistance an agent may provide which require the agent to attest to assisting an applicant. The proposed regulation has the effect of requiring an agent attestation of assistance after the applicant has been submitted but before the policy is issued if the applicant and agent have any communication whatsoever during this time period.

The proposed regulation imposes a time requirement on the insurer's return of a copy of the individual's health insurance application if the insurer issues an insurance policy in response to an individual applicant. The proposed regulation reinforces the existing requirement that the individual's application must be attached to the policy at the time of delivery to the in-

sured. The proposed regulation states that if the individual's application is not attached to the policy at the time it is delivered, the application cannot be used by the insurer in any later attempt to rescind or cancel the policy.

The proposed regulations impose timeframe and notice requirements on an insurer's rescission investigation when medical claims have been submitted for payment under a health insurance policy. The proposed regulations eliminate any conceivable uncertainty as to the fact that existing laws governing claims handling continue to apply to all health care claims submitted under an insurance policy including any claims submitted during the time period of a rescission investigation. The proposed regulations require the insurer to notify the insured of the insured's right to have any rescission, cancellation or limitation of a policy by an insurer reviewed by the Department of Insurance regardless of whether the insured has filed an appeal with the insurer prior to seeking assistance from the Department.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES OR SCHOOL DISTRICTS OR IN FEDERAL FUNDING

The Commissioner has determined that the proposed regulations will result in no cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, no other nondiscretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State.

ECONOMIC IMPACT ON BUSINESS AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Commissioner has made an initial determination that the adoption of the proposed regulations may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The types of businesses that may be affected are health insurers and agents. The Commissioner has not considered proposed alternatives that would lessen any

adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Commissioner expects that health insurers could incur additional costs by adopting more robust pre-issuance underwriting practices as a result of the proposed action. Purchasing medical and pharmacy information from commercial vendors who own such databases could cost several million dollars. These data would supplement information provided by the individual applicant and assist the insurer in completing medical underwriting. Health insurers will incur costs related to improving and updating the health history questionnaires used to complete medical underwriting to comply with the proposed regulations but these costs are expected to be relatively minor. Once the new forms are approved by the Department, the updated forms will improve the insurer's ability to complete medical underwriting in a more efficient manner.

If any insurers currently engage in the business practices that might be characterized as prohibited post-claims underwriting such as failing to complete medical underwriting prior to issuing a health insurance policy or related conduct, including failing to attach the health insurance application to an insured's policy upon delivery, failing to secure the agent's attestation as to assisting an applicant in submitting a health insurance application to an insurer or attempting to ask unclear and ambiguous health history questions in the individual health insurance application, such insurers will incur substantial additional costs to attain compliance with the proposed regulations. The additional cost of (1) obtaining an applicant's medical records, when necessary, and a Personal Health Record, if available, and (2) requesting statements from an applicant's Attending Physician(s), could be on the order of millions of dollars for insurers who currently conduct minimal pre-issuance medical underwriting. Certain underwriting expenses, such as obtaining medical records for applicants, are scalable depending on the number of applications received and depending on whether or not an insurer currently obtains and utilizes commercially available med-

ical and/or pharmacy databases. Smaller insurance companies will incur lower absolute costs compared to larger companies that receive several thousand applications each month.

Based on the Commissioner's recent market conduct examinations and enforcement of statutes that are referenced in the proposed action and the subsequent settlement of rescission-related enforcement actions, the Commissioner reasonably expects most of the State's insurers to become compliant with the proposed action without incurring inordinate costs as a result of the proposed action. This conclusion is based on representations that the State's large insurers have made to the Commissioner in the course of recent market conduct examinations and during recent settlement discussions. Based on Market Conduct examinations of health insurers and recent large settlement actions with certain health insurers who agreed to submit corrective action plans to the Department, the Commissioner has determined that most of the requirements of the proposed action have already been incorporated into the largest health insurers' cost of selling individual health insurance. However, the approximately 15% of the health insurance industry that has not been the subject of an enforcement action may not yet be conducting medical underwriting as defined by the proposed action. These insurers may incur significant costs in securing access to commercial databases if needed to complete medical underwriting. The Commissioner is aware that certain health insurance companies have simply decided not to rescind individual health insurance contracts in order to avoid the possibility of engaging in prohibited post-claims underwriting. For these companies, the cost of complying with the proposed action will be quite low.

The technology and information databases that may be used in conjunction with medical underwriting of individual health insurance applications continue to rapidly evolve in the marketplace. As new software is developed to mine claims data, health insurance companies desirous of sharpening their prospective determination and acceptance of certain proposed health insurance risks through more rigorous use of data derived from large claims databases, including their own claims databases, will incur costs to obtain and deploy this data. Since much of this technology has not yet been developed, the costs are impossible to predict at this time. The entire area of Health Information Technology (HIT) is growing rapidly and is expected to receive large capital infusions from the recently enacted federal stimulus legislation. Improved HIT will facilitate the mining of claims data which can result in improved data for medical underwriting. However, these costs would likely be incurred in the absence of the Commissioner's proposed action as they are the current costs of remaining competitive in the individual health insurance mar-

ket in California as companies are forced to do a better job of risk selection. These costs would likely be necessary if an insurer wished to retain its ability to rescind individual health insurance policies and minimize the risk of costly private litigation, absent the proposed regulations. Furthermore, the cost of conducting complicated and legally risky rescissions of individual's health insurance continues to rise in California with the increase in protracted legal class actions brought on behalf of those whose health insurance has been rescinded. Costs associated with compliance with the proposed regulations may be somewhat mitigated by the avoided costs of future legal actions brought by private parties whose health insurance coverage has been rescinded.

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of existing businesses, and the expansion of businesses currently operating in the state.

The proposed action could increase the time an insurer spends underwriting an application for individual health insurance. A longer process for processing such applications may delay the sale of health insurance for those individuals who meet the insurer's underwriting requirements and are able to pay the final premium required to buy the coverage. The proposed action is not expected to eliminate any jobs or existing businesses in California. The proposed action may provide additional opportunities for expansion of information technology businesses who supply information used for medical underwriting of individual health insurance applications and for underwriters and actuaries who will be needed in the event an insurer increases its pre-issuance medical underwriting activities to achieve compliance with the proposed regulations. However, the number of jobs or new businesses, if any, that will be created, as well as the degree to which businesses currently doing business in the state may expand, as a result of the proposed regulations is presently unknown.

FINDING OF NECESSITY

The Commissioner finds that it is necessary for the welfare of the people of the state that the regulations apply to businesses.

IMPACT ON HOUSING COSTS

The proposed regulations will have no significant effect on housing costs.

ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

IMPACT ON SMALL BUSINESS

The Commissioner has determined that the proposed amendments will affect small businesses to the extent that it affects insurance agents. However, insurance companies, which will also be affected, are by definition not small businesses, pursuant to Paragraph (b)(2) of Government Code section 11342.610.

COMPARABLE FEDERAL LAW

There is no comparable federal law as these matters are entirely within the purview of the state insurance law with no overlapping federal law or pre-emption by federal law.

**TEXT OF REGULATIONS AND
STATEMENTS OF REASONS**

The Department has prepared an initial statement of reasons that sets forth the reasons for the proposed action. Upon request, the initial statement of reasons will be made available for inspection and copying. Requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Requests for the final statement of reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the express terms of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available by appointment for inspection and copying at 300 Capitol Mall 17th Floor, Sacramento, California 95814, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

AUTOMATIC MAILING

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Insurance Commissioner's mailing list who have indicated an interest in health insurance related matters.

WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Find at the righthand side of the page the heading 'QUICK LINKS.' The third item in this column under this heading is 'For Insurers'; on the drop-down menu for this item, select 'Legal Information.' When the 'INSURERS: LEGAL INFORMATION' screen appears, click the third item in the list of bulleted items near the top of the page: 'Proposed Regulations.' The 'INSURERS: PROPOSED REGULATIONS' screen will be displayed. Select the only available link: 'Search for Proposed Regulations.' Then, when the 'PROPOSED REGULATIONS' screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To browse, click on the 'Currently Proposed Regulations' link. A list of the names of regulations for which documents are posted will appear. Find in the list the "Postclaims Underwriting Regulations (PCUW)" link, and click it. Links to the documents associated with these regulations will then be displayed.

To search, enter "REG-2007-00054" (the Department's regulation file number for these regulations) in the search field. Alternatively, search by keyword ("rescission" for example, or "health history"). Then, click on the 'Submit' button to display links to the various filing documents.

MODIFIED LANGUAGE

If the regulations adopted by the Department differ from those which have originally been made available but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE REGULATION FOR IN-USE OFF-ROAD DIESEL-FUELED FLEETS

The Air Resources Board (ARB or the Board) will conduct a public hearing at the time and place noted below to consider adopting amendments to its regulation for In-Use Off-Road Diesel-Fueled Fleets, California Code of Regulations (Cal. Code Regs.), title 13, sections 2449 through 2449.3 to address, among other things, the directives set forth in the recently adopted California budget Assembly Bill (AB 82X). This notice summarizes the specific amendments being proposed. The staff report (Initial Statement of Reasons) presents the proposed amendments and information supporting the adoption of the amendments in greater detail.

DATE: July 23, 2009

TIME: 9:00 a.m.

PLACE: County Administration Center
1600 Pacific Highway
Board Chambers, Room 310
San Diego, California 92101

This item will be considered at a one-day meeting of the Board, which will commence at 9:00 a.m., July 23, 2009. Please consult the agenda for the meeting, which will be available at least 10 days before July 23, 2008, to determine the order of agenda items.

If you require special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to California Code of Regulations, title 13, sections 2449(c), 2449(c)(26), 2449(c)(38), 2449(e)(6), 2449(e)(8), 2449(g), 2449(h), 2449.1(a)(2)(A), 2449.1(a)(2)(A)2.a., 2449.2(a)(2)(A), and 2449.2(a)(2)(A)2.a., the regulation for In-Use Off-Road Diesel-Fueled Fleets (off-road regulation).

Background:

At its July 26, 2007, public hearing, the Air Resources Board (Board or ARB) approved the regulation for In-Use Off-Road Diesel-Fueled Fleets (the off-road regulation) with the adoption of California Code of

Regulations, title 13, sections 2449 through 2449.3. The off-road regulation is intended to significantly reduce emissions of diesel particulate matter (PM) and oxides of nitrogen (NOx) from the nearly 180,000 off-road diesel vehicles that operate in California. The reductions are necessary to meet State and federal air quality standards and support the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles, which was adopted by the Board on September 30, 2000. To achieve the required reductions, the off-road regulation requires fleet owners to accelerate turnover to cleaner engines and install exhaust retrofits.

On December 12, 2008, the Board approved two minor amendments to the off-road regulation as part of the rulemaking that considered adoption of the Regulation for In-Use On-Road Diesel Vehicles. The amendments to the off-road regulation clarified the regulation's low-use provisions and expanded coverage of the regulation to include both the propulsion and auxiliary engines of two engine cranes.

On January 22, 2009, the Board approved several additional amendments to the off-road regulation. First, it extended the deadline for fleet owners to obtain double PM credits for installing exhaust retrofits. The deadline was extended by ten months to January 1, 2010. The extension will also allow fleets to obtain double credits if they order retrofits by September 1, 2009, but cannot install them by January 1, 2010, because of manufacturer delays. The extension provides fleets with additional time to accrue double PM retrofit credits, which will facilitate later compliance. The Board also approved several other minor modifications and clarifications to the regulation.

Applicability

The fleet requirements of the off-road regulation apply to any person; business, or government agency who owns or operates within California any diesel-fueled or alternative diesel fueled off-road compression ignition vehicle engine with maximum power of 25 horsepower (hp) or greater that is used to provide motive power in a workover rig or to provide motive power in any other motor vehicle that (1) cannot be registered and driven safely on-road or was not designed to be driven on-road, and (2) is not an implement of husbandry or recreational off-highway vehicle. With the exception of two-engine cranes, the regulation only addresses engines that propel vehicles (i.e., it does not apply to stationary equipment or portable equipment like generators).

Fleet Requirements

In general, the off-road regulation requires owners to modernize their fleets by replacing engines with newer, cleaner ones (repowering), replacing vehicles with

newer vehicles equipped with cleaner engines, retiring older vehicles, operating higher emitting vehicles less often (designating them as low-use vehicles) or by applying exhaust retrofits that capture and destroy pollutants before they are emitted into the atmosphere. The regulation determines the date of compliance and the actions required based on the size of the fleet, splitting fleets into three categories: large fleets with over 5,000 horsepower, medium fleets with 2,501 to 5,000 horsepower, and small fleets with 2,500 horsepower or less.

Performance requirements must be met by March 1 of each year, as follows:

- Large fleets: 2010–2020
- Medium fleets: 2013–2020
- Small fleets: 2015–2025

To meet the PM and NOx emission reduction requirements, fleets¹ have the option of meeting fleet average emissions targets, or meeting the Best Available Control Technology (BACT) requirements. The PM BACT requirements consist of installing retrofits that have been approved by ARB as verified diesel emission control strategies (VDECS) on 20 percent of their maximum horsepower in each year of compliance. To meet the NOx BACT requirements, large and medium fleets must turnover eight percent of their maximum horsepower in each year of compliance until 2015, after which there is a 10 percent turnover requirement.

To encourage fleets to take early actions to reduce emissions and to allow fleets to spread out the cost of compliance during the early years of the regulation, the off-road regulation provided fleets with credits for taking the following early compliance actions before March 1, 2009:

- Repowering vehicles, including replacing Tier 0 engines with Tier 1 engines;
- Retiring Tier 0 vehicles at an average rate greater than 8 percent of total fleet horsepower per year during the period from March 1, 2006 to March 1, 2009; and
- Installing VDECS that have been verified as achieving NOx reductions on their vehicles.

Legislatively Directed Changes

As part of the recently signed California budget, the California Legislature in AB 8 2X, codified at Health and Safety Code section 43018.2, directed ARB to make several changes to the regulation as set forth below. Although the changes will allow some fleets to delay compliance, the directives of AB 8 2X do not repeal or delay general implementation of the off-road regulation. The directives include:

1. Fleets that experience reduced activity of their off-road vehicles between July 1, 2007 and March 1, 2010, may take credit for this reduced fleet activity to satisfy the turnover and retrofitting requirements of the regulation in 2010 and 2011.
2. Fleets will be given credit (for both PM and NOx) for any vehicle retirements made between March 1, 2006, and March 1, 2010, provided that total fleet horsepower has decreased.
3. For the total cumulative turnover and retrofit requirements for the years 2011 through 2013, fleets may complete 20 percent of those requirements by March 1, 2011, an additional 20 percent by March 1, 2012, and the balance by March 1, 2013.

Because the legislatively directed changes will lessen the requirements for many large fleets in the early years of the regulation, without mitigation, the changes could result in:

- A loss in emission reductions that were anticipated to be achieved in 2014 (a key milestone year for the State Implementation Plan).
- A reduction in forecasted health benefits.
- A severe economic impact on retrofit manufacturers and installers that have invested in the anticipation of implementation of the off-road regulation, which could adversely impact the ability of that industry to have product available for compliance in future years, as well as a potentially significant loss of “green” jobs.

Therefore, to address the Legislature’s directives and potential impacts that could result, staff is proposing that the Board approve the amendments set forth and explained below for adoption.

Description of Proposed Regulatory Action

The first section below describes the AB 8 2X legislatively directed changes. The next section describes new provisions staff is proposing to add to the regulation to offset the loss in emission benefits due to the legislatively directed changes. The final section describes some minor modifications and clarifications to the off-road regulation.

Legislatively Directed Changes

Revised BACT Schedule

Staff proposes to amend sections 2449.1(a)(2)(A) and 2449.2(a)(2)(A) to add a provision to allow a fleet to achieve its cumulative turnover and retrofit requirements for the years 2011 to 2013, inclusive, by completing 20 percent of its cumulative turnover and retrofit obligations in 2011, an additional 20 percent in 2012, and the balance in 2013. This change would allow large fleets the option to defer a portion of the turnover and

¹ Large and medium fleets have to meet both the PM and NOx performance requirements. Small fleets are only required to meet the diesel PM requirements.

retrofits otherwise required in 2011 and 2012 to 2013, and result in a reduction of capital outlays in 2011 and 2012. Table 1 shows the existing regulatory provisions and the proposed revised BACT schedule.

**Table 1: Revised BACT Schedule
(Percent turnover required 1 Percent
retrofit required)**

	2010	2011	2012	2013	2014
Existing	8/20	8/20	8/20	8/20	8/20
Proposed Option	8/20	4.8/12	4.8/12	14.4/36	8/20

Staff also proposes to include a provision that would apply to all medium fleets and to large fleets that meet the NOx and PM fleet average targets in 2011 or 2012. Staff proposes to adjust the required BACT percentages for such fleets to ensure that the revised schedule does not increase the BACT requirements beyond what the current regulation requires. This is necessary because many fleets have already developed their compliance plans for the regulation and giving a fleet less credit than they were expecting would disrupt those plans.

Credit for Reduced Activity

Staff proposes to amend sections 2449.1(a)(2)(A)2.a. and 2449.2(a)(2)(A)2.a. to add provisions that would allow fleets to claim credit for reduced activity between July 1, 2007 and March 1, 2010. The new provisions specify that the new reduced activity credit may be used by fleets to satisfy their NOx and PM BACT requirements but will only be applicable towards the March 1, 2010 and March 1, 2011 compliance dates.

Staff also proposes to amend section 2449(g) to require reporting of information for those fleets claiming reduced activity credit. Staff also proposes to amend section 2449(h) to add the recordkeeping requirements associated with claiming the new reduced activity credit.

Staff proposes to determine reduced activity by comparing activity during the period January 1, 2007, to December 31, 2007 (centered on July 1, 2007, the date specified in AB 8 2X) to the activity during the period March 1, 2009 to February 28, 2010. Therefore, the activity reduction would be the percent reduction in horsepower hours (hp-hours) activity from the initial period (January 1, 2007 — December 31, 2007) to the later period (March 1, 2009 — February 28, 2010).

This new reduced activity credit would allow some large fleets to reduce or completely eliminate the need for compliance action in 2010 and 2011, delaying action until later years. The new credit would primarily

benefit those fleets that have experienced the greatest reduction in activity since 2007.

Additional Credit for Vehicle Retirement

Staff also proposes to amend sections 2449.1(a)(2)(A)2.a. and 2449.2(a)(2)(A)2.a. to add provisions to allow fleets to claim credit for vehicle retirements that reduce total fleet horsepower between March 1, 2006, and March 1, 2010. The new provisions specify that the new retirement credit could be used by fleets to satisfy their NOx and PM BACT requirements. Staff also proposes to amend section 2449(g) to require fleets that claim the proposed retirement credit to report specific information in support of their claims. Finally, staff proposes to amend section 2449(h) to add the recordkeeping requirements associated with claiming the new retirement credit.

As with the reduced activity credit, the retirement credit would allow some large fleets to reduce or completely eliminate the need to take compliance actions in the early years of the regulation and would primarily benefit those fleets that have significantly downsized since 2006. Because the new credits do not expire, they may be banked and used by fleets for many years and thus could assist some medium and small fleets as well.

Fleets that have retired vehicles and also have reduced activity from the remaining vehicles in the fleet may claim credit for both the retired vehicles and for the reduced activity related to the non-retired vehicles in the fleet. However, a fleet may not double count retired vehicles (i.e., receive credit for retiring and reduced, activity for the same vehicle) and reduced activity from those retired vehicles.

New Provisions to Mitigate Loss in Emission Benefits

Staff is proposing three specific measures to offset the loss in emission benefits due to the legislatively directed changes.

Exempt Vehicles that are Retrofitted Early from Future Turnover

Staff proposes to amend section 2449.1(a)(2)(A)4. to allow fleets to claim a limited exemption from future turnover if they install a highest level PM VDECS prior to March 1, 2011. This credit could potentially provide an incentive for fleets to install retrofits and achieve immediate PM reductions earlier than they otherwise would. This change would be purely voluntary, so it would impose no additional requirements on fleets. Staff is proposing to limit the exemption by capping the number of vehicles for which a fleet can claim the exemption; this would effectively mitigate potential long-term effects.

Double Credit for NOx Retrofits

Staff is similarly proposing to amend section 2449.1(a)(2)(A)2.a. to add a provision to allow fleets to claim double credit for NOx retrofits installed by March

1, 2011. Staff recommends this double credit because it could help mitigate the potential loss in NOx emission reductions from the legislatively-directed changes by providing an incentive for early NOx reductions. This change would be voluntary as well, so it would also not impose any additional requirements on fleets.

Repower Credit

Staff proposes to amend section 2449.1(a)(2)(A)2.b. to add a provision to allow fleets to accumulate NOx carryover turnover credit for repowers installed, even if such repowers do not exceed 8 percent of its total fleet horsepower. This change is intended to encourage large fleets to pursue repowers in 2010 and 2011 even if the new credits would otherwise allow them to comply in those years with no additional turnover, as well as to encourage medium fleets to pursue repowering in the years prior to their 2013 initial compliance date.

Extended Double Retrofit Credit for Small and Medium Fleets

Staff proposes to amend section 2449.1(a)(2)(A)2.a.ii., to provide double PM credit for small and medium fleets that install highest level VDECS on their vehicles prior to March 1, 2012. The double PM credit could be used by fleets to satisfy their PM BACT requirements in future years. This credit could potentially provide an incentive for small and medium fleets to install retrofits and achieve PM reductions earlier than they otherwise would. Taking advantage of this new double credit would be voluntary as well, so it would also not impose any additional requirements on fleets.

Other Minor Clarifications and Modifications

Staff is proposing several minor clarifications and modifications to the regulation, including the following:

Compliance Extension for Installer Delays

Staff is proposing to amend section 2449(e)(6) to clarify that the section applies to installer delays as well as manufacturer delays, both of which are beyond the fleet owner's control. Hence, a fleet owner who has purchased an engine or VDECS in order to comply with this regulation, will be excused from immediate compliance if the engine or VDECS is not been installed in time due to installer delays as long as the engine or VDECS was purchased at least four months prior to the compliance date.

Including Community College Training Programs as Non-Profit Training Centers

Staff is proposing to amend the definition of Non-Profit Training Center in section 2449(c)(38) to include community college programs that train students in the use of off-road vehicles. Currently, the definition in section 2449(c)(38) applies only to entities qualifying

as a non profit or not for profit organization under title 26 Internal Revenue Code section 501(a), (c)(3), (c)(5), or (c)(6). Since adoption of the regulation, staff has learned that community colleges run similar training programs to those included in the current definition of Non-Profit Training Center but that these programs do not meet the non profit or not for profit Internal Revenue Code definitions above. Per the definition of small fleet in section 2449(c)(25), Non-Profit Training Center fleets are considered small fleets and therefore are provided more time to comply with the PM requirements while also being exempt from the NOx provisions, regardless of their total horsepower. Staff believes that community college training programs should be extended this flexibility for the same reason it was extended to other non-profit training centers, namely that they have little opportunity to raise the money needed to pay for compliance, and that their equipment is relatively low-use.

VDECS That Impairs Safe Operation of Vehicle

Staff is proposing to amend section 2449(e)(8) to clarify that a retrofit installation may be determined unsafe if it would make compliance with any federal or State agency safety requirements impossible. Fleet owners may currently request that the Executive Officer find that a VDECS should not be considered the highest level VDECS available because its use would make compliance with occupational safety and health requirements, mining safety and health requirements, or an ongoing local air district permit condition, impossible. However, staff would like to clarify that fleets may also make that same request if use of a VDECS would conflict with any other federal or State agency safety requirements. For example, if use of a VDECS would cause a ground support equipment fleet at an airport to be unable to meet Federal Aviation Administration (FAA) safety requirements, the fleet could request that the VDECS not be considered highest level VDECS.

Definition of Forest Operations

Staff is proposing to amend section 2449(c)(26) to clarify that public agency fire prevention activities are classified as forest operations. Thus, vehicles used solely for such activities are considered to be used for agricultural operations and are exempt from the off-road regulation. Currently, such activities (which include installing fuel breaks, firebreaks, and fire hazard abatement) are defined as forest operations if they are "for commercial purposes." However, if such activities are undertaken by a public agency, they currently do not meet the definition. To provide equity and to avoid discouraging public agencies from undertaking fire prevention, staff proposes to expand the definition of forest

operations to include such activities, whether they are performed by a public agency or private entity.

Reporting Vehicle Sales

Staff is proposing to amend section 2449(g) to clarify that fleets must report to ARB within 30 days of selling a vehicle. Section 2449(f)(1) already requires that fleets report within 30 days of purchasing a vehicle or bringing it into California. To enable fleets to cleanly add vehicles that they have purchased from another fleet and for the vehicles to maintain their Equipment Identification Numbers, it is also necessary for fleets to report sales in the same time frame.

COMPARABLE FEDERAL REGULATIONS

The U.S. Environmental Protection Agency (U.S. EPA) has promulgated federal emission standards for new non-road engines. However, no federal standards have been promulgated addressing emission reductions from in-use diesel vehicle engines.

Under section 209(e)(2), California may adopt and enforce emission standards and other requirements for off-road engines and equipment not expressly subject to federal preemption, so long as California applies for and receives authorization from the Administrator of U.S. EPA. California's request for authorization was submitted on August 12, 2008, and on October 27, 2008, the U.S. EPA conducted a hearing regarding California's request for authorization for the off-road regulation; the request is presently pending.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: "Proposed Amendments to the Regulation for In-Use Off-Road Diesel Vehicles."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on July 23, 2009.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to Ms. Kim Heroy-Rogalski, Manager of the Off-road Implementation Section at (916) 327-2200, or Ms. Beth White, Air Pollution Specialist, at (916) 324-1704.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Lori Andreoni, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB website for this rulemaking at www.arb.ca.gov/regact/2009/offroad09/offroad09.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

Costs to State Government and Local Agencies

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has prepared an estimate in accordance with instructions adopted by the Department of Finance, and determined that the proposed regulatory action would not create overall costs or savings to any State agency or in federal funding to the State, costs or mandate to any local agency or school district whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

The proposed modifications to provide additional early credit to fleets that have decreased in total horsepower or have reduced fleet activity would provide fleets with the opportunity to delay their initial compliance costs, without increasing the total cost of the regulation. Public fleets that have experienced drastic reductions in activity or fleet size may be able to avoid any compliance actions in 2010 and 2011. The ability to delay initial compliance costs could benefit the State, federal, and larger municipal fleets whose first compliance date is March 1, 2010, more than local municipalities that are small or medium fleets, because the new reduced activity credits expire after 2011.

Additionally, the revised schedules for BACT would reduce the turnover and retrofitting requirements in 2011 and 2012 for large public fleets, requiring them to take fewer compliance actions in those years thereby

delaying some of their compliance costs until 2013. Although the proposed modifications would require an increase in fleet turnover and retrofitting in 2013, the cumulative amount of turnover and retrofitting required between 2011 and 2013 will not increase or decrease from the costs identified at the time of initial adoption of the off-road regulation. Therefore, the revised BACT schedule will not increase the cost of the regulation. Instead, it may slightly decrease costs by allowing fleets to defer compliance costs to later years using later year dollars (i.e., the present value of their compliance costs will be lower).

Finally, some cost savings are expected for public agencies that off-road vehicles that perform fire prevention activities.

Effect on Private Persons and Businesses

Pursuant to Government Code section 11346.5(a)(9), ARB has evaluated the potential economic impacts on representative private persons or businesses and the Executive Officer has determined that a representative private person and business would incur minimal, if any, cost impacts because of the proposed amendments.

As discussed above for public fleets, the proposed modifications to provide additional early credit to fleets that have decreased in total horsepower or have reduced fleet activity would allow some fleets to delay their initial compliance costs, without imposing any additional costs on them. Large fleets that have experienced drastic reductions in activity or fleet size may be able to defer any compliance actions in 2010 and 2011. Additionally, the revised BACT schedule is not expected to result in any additional costs on business overall because the cumulative amount of turnover and retrofitting required between 2011 and 2013 would not change. Instead, it may slightly decrease costs by allowing fleets to defer compliance costs to later years using later year dollars (i.e., the present value of their compliance costs will be lower). The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action may affect small businesses. However, the proposed amendments will not impose any additional costs on small businesses, and instead may benefit them by allowing them to spread out or lower their compliance costs.

Effect on State Economy

Pursuant to Government Code section 11346.5(a)(8), the Executive Officer has made an initial determination that the proposed regulatory action would not have a significant Statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. In accordance with Government Code sections 11346.5(a)(10) and 11346.3(b), the Executive Officer has further determined that the proposed regulatory ac-

tion may decrease the elimination of jobs within the State of California, and decrease the elimination of existing businesses within the State of California.

The proposed legislatively directed modifications would reduce the compliance obligations for many fleets and businesses affected by the off-road regulation in 2010 and 2011, mitigating the effects of the current economic downturn. These modifications could also lead to a negative economic impact on retrofit manufacturers and installers and firms that provide repowers because they would receive fewer orders in the next few years. However, the provisions within the proposed modifications intended to encourage early retrofitting and repowering would help protect such retrofit and repower jobs and businesses.

A detailed assessment of the economic impacts of the proposed regulatory action and its effect on California businesses can be found in the ISOR.

Consideration of Alternatives

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. Alternatives that have been considered by staff are discussed in the ISOR.

SUBMITTAL OF COMMENTS REGARDING PROPOSED REGULATORY ACTION

The public may present comments relating to the proposed amendments orally or in writing at the hearing, and in writing or by email before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, July 22, 2009**, and addressed to the following:

Postal mail:	Clerk of the Board, Air Resources Board 1001 I Street, Sacramento, California 95814
Electronic submittal:	http://www.arb.ca.gov/ lispub/comm/bclist.php
Facsimile submittal:	(916) 322-3928

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board members have time to fully consider each comment. The board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted in Health and Safety Code (HSC) sections 39600, 39601, 39602.5, 39667, 43013, 43018, and 43018.2. This action is proposed to implement, interpret, and make specific sections 2449, 2449.1, and 2449.2, title 13, California Code of Regulations.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory amendments as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

At the Board meeting, the Board may direct staff to develop additional modifications to the regulation to be considered at a later Board hearing. If directed to do so, ARB will prepare a separate notice of proposed rule-making that will be published not less than 45 days before the scheduled hearing date.

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.arb.ca.gov.

TITLE 13. DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

NOTICE OF PROPOSED REGULATORY ACTION

AMEND ARTICLE 1, DEFINITIONS AND GENERAL PROVISIONS, SECTIONS 1200; ARTICLE 6.5, CARRIER IDENTIFICATION NUMBERS, SECTIONS 1235.1 THROUGH 1235.6; AND ARTICLE 8, SECTION 1256, IDENTIFICATION ADOPT NEW SECTION 1235.7, LEASED VEHICLES

MOTOR CARRIER SAFETY CARRIER IDENTIFICATION (CHP-R-09-15)

California Vehicle Code (VC) Section 34501 requires the Department of the California Highway Patrol (CHP) to adopt reasonable rules and regulations which, in the judgment of the Department, are designed to promote the safe operation of vehicles described in 34500 VC. Those regulations are contained in Title 13, California Code of Regulations.

Section 34507.5 VC requires certain persons, primarily motor carriers, to obtain a California Carrier Identification number, identified in regulation as a "CA number," from the CHP, and with some exceptions, to display that number on both sides of the vehicles mentioned above. During 2001/2002, in order to provide greater clarity to the enabling statute, the CHP adopted regulations relating to the assignment of carrier identification numbers. Now, however, the CHP believes that recent developments indicate all persons who are subject to Section 34507.5 should be provided greater clarity with regard to whom the CA number should be assigned. That clarity is provided through formal adoption of regulations in Title 13 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CHP proposes to amend Title 13, California Code of Regulations, Division 2, Chapter 6.5, Article 1, Section 1200 and Article 6.5, Sections 1235.1 through 1235.6, Article 8, Section 1256 and Adopts Article 6.5, new Section 1235.7, pursuant to Sections 34501 and 34507.5 VC. The CHP proposes to specifically address the assignment of carrier identification numbers to motor carriers and to Motor Carriers of Property (MCP), two separately-defined groups identified in the VC who are required by statute to obtain identification

numbers from the Department. The purpose of the identification number is to identify an electronic record maintained by the Department for the purpose of tracking the safety performance of motor carriers and MCPs who operate on California highways. The purpose of tracking their safety performance is to implement the mandate in Section 34500 VC, which charges the Department with the responsibility to regulate the safe operation of all the vehicles listed in that section, and to regulate the safe operation of MCPs pursuant to Section 34623 VC.

These regulations are necessary to ensure that persons who are subject to safety regulation by the Department are properly identified by their legal names and related information. Proper identification ensures that data relating to the safety performance of persons who operate in California as motor carriers or MCPs is always attributed to the correct person, and consequently to ensure that when the Department must take legal action against a person for violations of safety laws and regulations, the person is accurately identified.

Additionally, in order to provide a consistent identification of interstate motor carriers under both state and federal rules, it is necessary that the Department adopt rules relative to the leasing of motor vehicles which are consistent with existing federal rules. This does not necessarily create new rules for interstate motor carriers, because they are already subject to identical rules, but it does permit the Department to both identify interstate motor carriers in the same manner as the Federal Motor Carrier Safety Administration (FMCSA) and to enforce substantially the same requirements on those motor carriers as our federal counterpart. This will permit the Department to move one step closer in providing a seamless enforcement of regulations for motor carriers operating in an interstate mode within the boundaries of California.

The Department also proposes to adopt consistent leasing rules for intrastate motor carriers of property. Those rules which apply to intrastate motor carriers will need to be modeled on the interstate motor carrier rules, but include the necessary changes to accommodate those subtle differences between the FMCSA's motor carrier registration and operating authorities and the Department of Motor Vehicle's MCP permit. The proposed rules will conspicuously omit the for-hire passenger transportation industry as well as Household Goods carriers as they operate under a separate authority issued by the California Public Utilities Commission and specific rules adopted by the same agency.

PUBLIC COMMENTS

Any interested person may submit written comments on these proposed actions via facsimile to (916)

446-4579, by email to cvsregs@chp.ca.gov, or by writing to:

California Highway Patrol
Commercial Vehicle Section
ATTN: Mr. Gary Ritz
P.O. Box 942898
Sacramento, CA 94298-0001

Written comments must be received no later than 4:45 p.m., July 20, 2009.

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, Commercial Vehicle Section (CVS), no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF INFORMATION

The CHP has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text. Requests to review or receive copies of this information should be directed to the CHP at the above address, by facsimile at (916) 446-4579 or by calling the CHP, CVS, at (916) 445-1865. Facsimile requests for information should include the following information: the title of the rulemaking package, the requester's name, proper mailing address (including city, state and zip code), and a daytime telephone number in case the information is incomplete or illegible.

The rulemaking file is available for inspection at the CHP, CVS, 444 North Third Street, Sacramento. Interested parties are advised to call for an appointment.

All documents regarding the proposed action are also available through our website at www.chp.ca.gov/regulations.

Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above noted address. Copies will also be posted on our website.

CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulations should be directed to Mr. Gary Ritz, or Mr. Greg Bragg, CHP, CVS, at (916) 445-1865. Inquiries regarding the substance of the proposed regulations should also be directed to Mr. Ritz or Mr. Bragg.

ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth with-

out further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or nonsubstantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

FISCAL AND ECONOMIC IMPACT

The CHP has made an initial determination that this proposed regulatory action: (1) will have no affect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) involves no nondiscretionary or reimbursable costs or savings to any local agency or school district; nor costs or savings to any state agency, or federal funding to the state; (4) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California; and (5) will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The CHP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. However, the regulated community is encouraged to respond during the public comment period of this regulatory process if significant impacts are identified.

EFFECT ON SMALL BUSINESSES

The CHP has not identified any significant impact on small business. This does not represent an additional mandate on motor carriers, but simply provides a method by which an intrastate motor carrier can operate vehicles it does not own. This is not to say a motor carrier who chooses to operate under the provisions of this regulatory process will not incur certain administrative costs; the fact is a motor carrier who elects to use these provisions, would voluntarily subject themselves to the administrative costs associated with certain document preparation and retention requirements required by this rulemaking. However, an intrastate motor carrier who continues to operate their own vehicles, under the current rules, would be completely unaffected by this proposal. Interstate motor carriers are already subject to the

requirements of this proposal. Adoption of the federal rules simply permits the CHP to enforce those rules already included in 49 CFR, Part 376. Should the motor carrier industry identify any costs not identified by this rulemaking, the CHP would encourage input on this matter during the comment period.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the CHP must determine that no reasonable alternative considered by the CHP, or that has otherwise been identified and brought to the attention of the CHP, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AUTHORITY

This regulatory action is being taken pursuant to Vehicle Code Sections 34500, 34500.1, 34501, 34501.12, 34505.1, 34505.6, 34505.7, 34507.5, 34507.6, 34508 and 34620.

REFERENCE

This action implements, interprets, or makes specific Vehicle Code Sections 34507.5, 34620 (a), 34621 (b)(4).

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

Board of Forestry and Fire Protection Title 14 of the California Code of Regulations

[Published June 5, 2009]

NOTICE OF PROPOSED RULEMAKING

Forest Improvement Program, Urban Forestry, Chaparral Management Regulatory Updates, 2009

Title 14 of the California Code of Regulations (14 CCR)

The Board of Forestry and Fire Protection (Board) proposes to amend and adopt the regulations of Title 14 of the California Code of Regulations (14 CCR) de-

scribed below after considering all comments, objections, and recommendations regarding the proposed action.

Adopt:

§ 1530.05 Waiver of Cost Sharing

Amend:

§ 1553 Grant Guidelines
 § 1554 Acceptance for Review and Filing
 § 1561.1 Definitions
 § 1562 General Eligibility Criteria
 § 1564 Cost Sharing Schedules
 § 1567 Rejection of Application

PUBLIC HEARING

The Board will hold a public hearing starting at 8:00 a.m., on Wednesday, August 5, 2009, at the Resources Building Auditorium, 1st Floor, and 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code section 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. **The written comment period ends at 5:00 p.m., Monday, July 20, 2009.** The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
 Attn: Christopher Zimny
 Regulations Coordinator
 P.O. Box 944246
 Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
 Room 1506-14
 1416 9th Street
 Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code (PRC) Sections 4551, 4551.5 and 4554.5 authorize the Board to adopt such rules and regulations as it determines are reasonably necessary to enable it to implement, interpret or make specific sections 4512, 4513 and 4561 of the Public Resources Code. Reference: Public Resources Code sections 4428, 4464, 4475, 4476, 4513, 4551.5, 4561, 4584, 4795, 4799, 4799.02 and 21080.5.

INFORMATIVE DIGEST/POLICY STATEMENT
 OVERVIEW

Existing regulations for the California Department of Forestry and Fire Protection's (CAL FIRE) Forest Improvement Program, Urban Forestry Program Procedures, and Chaparral Management Program specify the manner in which the state shares the cost of beneficial work in urban and undeveloped landscapes with private landowners and other entities. The federal American Recovery and Reinvestment Act (ARRA) of 2009 may provide funding in support of these state and private, urban and rural forestry projects. However, ARRA requires that there be no cost share requirement associated with the federal funds and the existing Grant Guidelines in regulations for these programs all specify a cost share requirement.

In order to potentially receive federal funds for these programs, the regulations must be modified to allow for waiver of the cost share requirement. This regulatory proposal is intended to remove impediments in the form of cost share requirements for the Forest Improvement, Urban Forestry, and Chaparral Management Programs such that federal funding may be secured for these programs.

SPECIFIC PURPOSE OF THE REGULATION

Adoption of 14 CCR § 1530.05 establishes the waiver of landowner cost share requirements for projects un-

der the California Forest Improvement Program. This amendment addresses the ARRA federal funding requirements that there be no cost share requirement imposed on landowners.

Amendments to 14 CCR § 1553(e) establishes grant guidelines for the wavier of landowner cost share requirements for projects under the Urban Forestry Program. This amendment addresses the ARRA federal funding requirements that there be no cost share requirement imposed on landowners.

Amendments to 14 CCR § 1554 eliminates reference to the Urban Forestry Program (UFP) grant projects needing to be “partially” financed by the UFP. Under the proposed amendments, grants may be fully funded by the UFP. This amendment addresses the ARRA federal funding requirements that there be no cost share requirement imposed on landowners.

Amendments to definitions in 14 CCR § 1561.1 and 14 CCR § 1562(a)–(e) for the Chaparral Management Program are non–substantive clerical changes to update the regulation consistent with current statutory and regulatory content and terminology.

Amendments to 14 CCR § 1562(f) for the Chaparral Management Program establishes the wavier of landowner cost share requirements for projects under this Program. This amendment addresses the ARRA federal funding requirements that there be no cost share requirement imposed on landowners.

Amendments to 14 CCR § 1564(a) for the Chaparral Management Program establishes the wavier of landowner cost share requirements for projects under this Program. This amendment addresses the ARRA federal funding requirements that there be no cost share requirement imposed on landowners. All other amendments under this subsection are non–substantive clerical changes to update the regulation consistent with current statutory and regulatory content and terminology.

Amendments to 14 CCR § 1567 eliminates reference to the need for cost sharing under the Chaparral Management Program. This amendment addresses the ARRA federal funding requirements that there be no cost share requirement imposed on landowners.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None are known.
- Costs or savings to any State agency: None are known.

- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC Section 17500: None are known.
- Other non–discretionary cost or savings imposed upon local agencies: None are known.
- Cost or savings in federal funding to the State: None are known.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None are known.
- Potential cost impact on private persons or directly affected businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business because the proposed regulation imposed no new requirements on small business.
- Significant effect on housing costs: None are known.
- Adoption of these regulations will not create or eliminate jobs within California.
- Adoption of these regulations will not: (1) create new businesses or eliminate existing businesses within California; or (2) affect the expansion of businesses currently doing business within California.

The proposed Rules do not conflict with or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of

the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone (916) 653-5602.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action, using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at: http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

a) testified at the hearings,

- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 16. BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

TITLE 16. CALIFORNIA CODE OF REGULATIONS, DIVISION 5

BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

NOTICE IS HEREBY GIVEN that the Board for Professional Engineers and Land Surveyors is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

Office of Systems Integration
2525 Natomas Park Drive, Suite 100
Sacramento, California, 95833

Thursday, July 23, 2009
9:00 a.m.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on July 20, 2009, or must be received by the Board immediately following the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text.

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 6716, 6717, 6751.5, and 8710 of the

Business and Professions Code, and to implement, repeal, interpret, or make specific Sections 6730, 6751, 6751.2, 6751.5, 6752, 6753, 6753.5, 8726, 8741, and 8742 of said Code, the Board is considering changes to Division 5 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

An applicant for licensure as a professional engineer or a professional land surveyor must have six years of experience (either six years of work experience or a combination of work experience and education) in order to become licensed.

Under current statutes, an applicant for licensure may receive four years of experience credit for an undergraduate degree from a board-approved curriculum; an applicant with an undergraduate degree from a non-board-approved curriculum may receive two years of experience credit. In addition, an applicant may receive five years of experience credit for a post-graduate degree in a school of engineering with a board-approved undergraduate or post-graduate curriculum.

Current regulations define the board-approved curricula and specify the number of years of experience an applicant will be given credit for based on whether or not they have an undergraduate or post-graduate degree in a board-approved curricula. This proposal would move the definitions from Section 460 to Section 404, which contains all of the other definitions of terms used in the statutes and regulations, and would repeal Section 460. In addition, this proposal would update and clarify the definitions to use the current terminology used by ABET, which is the organization that accredits engineering and land surveying curricula. This proposal would also clarify the number of years of experience an applicant will be given credit for based on their education.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None

Nondiscretionary Costs/Savings to Local Agencies:

None

Local Mandate:

None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement:

None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have an impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs:

None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The Board does not license businesses; the Board licenses individuals. This proposal would clarify the terminology used regarding experience credit given to applicants based on their education.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation, or that has otherwise been identified and brought to its attention, would either be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome, to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of

the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 300, Sacramento, California 95833.

**AVAILABILITY AND LOCATION OF
THE FINAL STATEMENT OF REASONS AND
RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Larry Kereszt
Address: 2535 Capitol Oaks Drive,
Suite 300
Sacramento, CA 95833
Telephone No.: (916) 263-2240
Fax No.: (916) 263-2221
E-Mail Address: Larry_Kereszt@dca.ca.gov

The backup contact person is:

Name: Nancy Eissler
Address: 2535 Capitol Oaks Drive,
Suite 300
Sacramento, CA 95833
Telephone No.: (916) 263-2241
Fax No.: (916) 263-2221
E-Mail Address: Nancy_Eissler@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at <http://www.pels.ca.gov>.

**TITLE 16. BOARD FOR
PROFESSIONAL ENGINEERS AND
LAND SURVEYORS**

**TITLE 16. CALIFORNIA CODE OF
REGULATIONS, DIVISION 5**

**BOARD FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS**

NOTICE IS HEREBY GIVEN that the Board for Professional Engineers and Land Surveyors is propos-

ing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

Office of Systems Integration
2525 Natomas Park Drive, Suite 100
Sacramento, California, 95833

Thursday, July 23, 2009
9:00 a.m.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on July 20, 2009, or must be received by the Board immediately following the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text.

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 6716, 6736, and 8710 of the Business and Professions Code, and to implement, interpret, or make specific Sections 6736, 6751, 6752, 6763, 8742, and 8743 of said Code, the Board is considering changes to Division 5 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

An applicant for licensure as a professional engineer or a professional land surveyor must demonstrate six years of qualifying experience (either six years of work experience or a combination of work experience and education) in order to become licensed. An applicant for the authority to use the title "structural engineer" must demonstrate three years of qualifying structural engineering work experience after licensure as a civil engineer.

Current statutes require applicants to submit references to verify the qualifying work experience. Current regulations specify the forms to be used by the applicants and individuals providing the references. The Board has determined that these forms need to be updated and clarified, since they have not been updated for many years.

In addition, current statutes require applicants for licensure as professional land surveyors to have “broad based progressive experience in land surveying . . . including one year of responsible field training and one year of responsible office training.” Current regulations define the terms “responsible field training” and “responsible office training.” The Board has determined that it would be beneficial to applicants for licensure as professional land surveyors to have the option of submitting another form as a supplement to the required reference forms. This new form would allow the applicants to describe their work experience in more detail, which would assist the applicants, their references, and the Board in determining whether the applicants have gained the required broad based progressive experience including responsible field training and responsible office training.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None

Nondiscretionary Costs/Savings to Local Agencies:

None

Local Mandate:

None

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement:

None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have an impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs:

None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The Board does not license businesses; the Board licenses individuals. This proposal would update and clarify the reference forms that must be submitted by applicants for licensure as a professional engineer or a professional land surveyor or for the authority to use the title “structural engineer.” This proposal would not place any new requirements on the applicants or other individuals.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation, or that has otherwise been identified and brought to its attention, would either be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome, to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 300, Sacramento, California 95833.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: Larry Kereszt
Address: 2535 Capitol Oaks Drive,
Suite 300
Sacramento, CA 95833
Telephone No.: (916) 263-2240
Fax No.: (916) 263-2221
E-Mail Address: Larry_Kereszt@dca.ca.gov

The backup contact person is:

Name: Nancy Eissler
Address: 2535 Capitol Oaks Drive,
Suite 300
Sacramento, CA 95833
Telephone No.: (916) 263-2241
Fax No.: (916) 263-2221
E-Mail Address: Nancy_Eissler@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at
<http://www.pels.ca.gov>.

**TITLE 16. BOARD FOR
PROFESSIONAL ENGINEERS AND
LAND SURVEYORS**

**TITLE 16. CALIFORNIA CODE OF
REGULATIONS, DIVISION 5**

**BOARD FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS**

NOTICE IS HEREBY GIVEN that the Board for Professional Engineers and Land Surveyors is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

Office of Systems Integration
2525 Natomas Park Drive, Suite 100
Sacramento, California, 95833

Thursday, July 23, 2009
9:00 a.m.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on July 20, 2009, or must be received by the Board immediately following the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text.

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 6716 and 6755 of the Business and Professions Code, and to implement, interpret, amend, or make specific Section 6755 of said Code, the Board is considering changes to Division 5 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Factual basis for determination that each proposed change is necessary:

In 1995, Section 438 was amended to include a provision allowing for the waiver of the first division examination (the Engineer-in-Training [EIT] examination) for professional engineering applicants if the applicant is the holder of a Ph.D. from an accredited engineering program. The provision included a "sunset clause" that authorized this waiver to be in effect for five years. This clause was included so that the Board could determine if there was sufficient interest to continue this waiver. At the end of the five-year period, it appeared that there was not sufficient interest in continuing it. Therefore, the waiver provision was allowed to end. Subsequently, the language was removed from the regulation.

Recently, the Board has received inquiries and correspondence from various individuals and professional associations indicating a renewed interest in such a waiver. Therefore, at its November 20, 2008, meeting, the Board decided to amend Section 438 to once again include a provision to allow for the waiver of the EIT examination if the applicant for the professional engineer license is the holder of a Ph.D. from a Board-approved [accredited] engineering program.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None

Nondiscretionary Costs/Savings to Local Agencies:

None

Local Mandate:

None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement:

None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs:

None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The Board does not license businesses; the Board licenses individuals. This proposal does not mandate licensure; it provides an alternative method for obtaining licensure as a professional engineer through waiving the first division examination.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either

be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 300, Sacramento, California, 95833.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Larry Kereszt
Address: 2535 Capitol Oaks Drive,
Suite 300
Sacramento, CA 95833
Telephone No.: (916) 263-2240
Fax No.: (916) 263-2221
E-Mail Address: Larry_Kereszt@dca.ca.gov

The backup contact person is:

Name: Nancy Eissler
 Address: 2535 Capitol Oaks Drive,
 Suite 300
 Sacramento, CA 95833
 Telephone No.: (916) 263-2241
 Fax No.: (916) 263-2221
 E-Mail Address: Nancy_Eissler@dca.ca.gov

Website Access

Materials regarding this proposal can be found at <http://www.pels.ca.gov>.

TITLE 16. MEDICAL BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Medical Board of California (hereinafter referred to as the "Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at the hearing to be held at the Sacramento Convention Center, 1400 J Street, Sacramento, California 95814, at 9:00 a.m. on July 24, 2009. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on July 20, 2009 or must be received at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2018 of the Business and Professions Code, and to implement, interpret or make specific Sections 2089, 2089.5, 2102, 2103, 2135 and 2135.5 of said Code, the Board is considering changes to Division 13 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 1314.1.

Existing regulations have not been updated since their adoption in 2003. These regulations describe the

process that the Board uses to review the educational programs of international medical schools to determine if they satisfy the minimum standards specified in statute. Over the past six years, Board staff and the expert Medical Consultants who assist the Board in reviewing international medical schools have identified deficiencies in the current regulations as well as additional provisions that, if adopted, would add greater specificity to the Board's process for reviewing international medical schools. Also, the Liaison Committee on Medical Education (LCME), on whose standards the regulation is based, has updated its standards for reviewing U.S. and Canadian medical schools. Several of the LCME's new standards are relevant to international medical schools and should be adopted into the Board's regulation.

This proposal would augment the regulation with provisions recommended by staff and the Board's Medical Consultants, based on their experiences in utilizing the existing regulation to review international medical schools and with relevant standards adopted by the LCME. In addition, this proposal would replace the word "division" with "board" throughout the regulation to conform to a recent statutory amendment, and would make non-substantive, editorial and grammatical revisions.

Specifically, the proposed amendments would:

- Correct an oversight to subsection (a)(1) by adding language specifying that the board may grant recognition to non-profit privately-owned medical schools registered in the country in which they are located, and that medical schools shall be affiliated with a university. The amendment would also repeal the current requirement that the country must be a member of the Organization for Economic Cooperation and Development.
- Add language to subsection (a)(2) to further differentiate medical schools in subsection (a)(1) from those in subsection (a)(2) by explaining that the primary purpose of subsection (a)(2) schools is to educate non-citizens to practice medicine in other countries.
- Clarify in subsection (b)(1)(B) that a medical school's educational program shall teach students how research applies to patient care.
- Specify in subsection (b)(3) that medical schools shall state in outcome-based terms what students are expected to learn. Require medical schools to demonstrate that their students receive comparable educational experiences if students complete clinical clerkships at multiple teaching sites.

- Add subsection (b)(4) to require medical schools to have a system for central oversight of the clinical experiences that students shall receive. Also, the system shall ensure that the faculty monitors and verifies the students' clinical experiences and modifies the system as necessary to ensure that the objectives of the clinical education program are met.
- Add subsection (b)(5) to require medical schools to promote the development of professional attributes in medical students and define those professional attributes that they expect students to develop, including the promotion of the safe practice of medicine.
- Amend subsection (b)(8) to require medical schools to document how their admitted students generally meet entrance requirements equivalent to those utilized by U.S. and Canadian medical schools and to document how the medical school conducted a background check of admitted medical students.
- Specify in subsection (b)(9) that pressure for institutional self-financing must not compromise the institution's educational mission or cause it to enroll more students than its total resources can accommodate.
- Specify in subsection (b)(13)(B) that institutions shall disclose affiliations or relationships with other institutions in which either institution agrees to grant a doctor of medicine degree to students of the other institution for coursework completed at the affiliated institution.
- Add subsection (b)(14) to require medical schools to collect a variety of outcome data and utilize that data to demonstrate that their program is meeting its educational objectives. The amendment provides examples of relevant outcome data that medical schools shall collect.
- Add language to (f)(1)(A) to require medical schools to disclose to the Board the addition or termination of any branch campus.
- Further clarify in subsection (f)(1)(D) that medical schools shall disclose to the Board any major change in their curriculum, including a curriculum change that would affect its focus, design, requirements for completion or mode of delivery.
- Add a requirement in subsection (f)(1)(F) that a medical school must disclose to the Board an increase in its enrollment above 10% or 15 students in one year, whichever is less, or a 20% increase in enrollment in three years.
- Specify in subsection (g) that the Board may require a site visit as part of the reevaluation required in subsection (f)(2) or anytime during the seven-year period if the Board becomes aware of circumstances that warrant a site visit, such as any of the changes to the school's educational program described in subsection (f).
- In subsection (h), specify three additional circumstances under which the Board may determine that a medical school is no longer in compliance with this section: 1) The institution submits false or misleading documentation regarding its compliance with section (b); 2) The institution submits fraudulent documentation concerning a former student's medical Curriculum; or 3) The institution permits students to engage in clinical training in California facilities that are not defined as approved teaching sites in statute or regulation.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination:

The proposed amendments affect medical schools located outside the United States and will have no impact on California businesses or institutions.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The proposed amendments affect educational institutions located outside the United States.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based. Copies of the initial statement of reasons and all of the information upon which the proposal is based may be obtained from the person designated in the Notice under Contact Person or by accessing the Board's website: http://www.medbd.ca.gov/laws/regulations_proposed.html.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in this Notice under Contact Person or by accessing the Board's website: http://www.medbd.ca.gov/laws/regulations_proposed.html.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below, or by accessing the Board's website: http://www.medbd.ca.gov/laws/regulations_proposed.html.

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: Deborah Pellegrini, Chief of
Licensing
Address: Medical Board of California
2005 Evergreen St., Suite 1200
Sacramento, CA 95815
Telephone Number: (916) 263-2365
Fax Number: (916) 263-2487
E-Mail Address: dpellegrini@mbc.ca.gov

The backup contact person is:

Name: Kevin A. Schunke
Address: Medical Board of California
2005 Evergreen St., Suite 1200
Sacramento, CA 95815
Telephone Number: (916) 263-2368
Fax Number: (916) 263-2387
E-Mail Address: kschunke@mbc.ca.gov

Website Access: Materials regarding this proposal can be found at http://www.medbd.ca.gov/laws/regulations_proposed.html.

TITLE 16. MEDICAL BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Medical Board of California (hereinafter referred to as the "Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at **the Sacramento Convention Center, 1400 J Street, Sacramento, California, at 9:10 a.m. on July 24, 2009**. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than **5:00 p.m. on July 20, 2009** or must be received at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this

Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2018 of the Business and Professions Code, and to implement, interpret or make specific Section 138 of said Code, the Board is considering changes to Division 13 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Adopt Section 1355.4.

Existing law, Business and Professions Code section 138, requires every board in the Department of Consumer Affairs to adopt regulations to require its licensees to provide notice to their customers that the practitioner is licensed by the state.

This proposal implements section 138 by mandating notification to consumers by physicians of the fact that they are licensed by the Medical Board of California, with the Board's toll-free number and its Web site.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: minor

Nondiscretionary Costs/Savings to Local Agencies: none.

Local Mandate: none

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: none

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would affect small businesses, since some licensees work in a small-business practice setting.

This proposed regulation would require physicians to determine which of the three notification options provided would be most appropriate for their practices, and then post a sign where their patients may see it; or put the required language on a piece of paper to be signed by each patient and retained in his/her file; or include the language in another document just above the patient's signature.

However, impact would be *de minimus*, since it is anticipated that most physicians' offices will simply post one sign in the reception area or waiting room.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based. Copies of the initial statement of reasons and all of the information upon which the proposal is based may be obtained from the person designated in the Notice under Contact Person or by accessing the Board's website: http://www.medbd.ca.gov/laws/regulations_proposed.html.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may

be obtained at the hearing or prior to the hearing upon request from the person designated in this Notice under Contact Person or by accessing the Board's website: http://www.medbd.ca.gov/laws/regulations_proposed.html.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below, or by accessing the Board's website: http://www.medbd.ca.gov/laws/regulations_proposed.html.

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: Candis Cohen
Address: Medical Board of California
2005 Evergreen St., Ste. 1200
Sacramento, CA 95815
Telephone: (916) 263-2394
Fax: (916) 263-2387
E-Mail Address: ccohen@mbc.ca.gov

The backup contact person is:

Name: Kevin A. Schunke
Address: Medical Board of California
2005 Evergreen St., Ste. 1200
Sacramento, CA 95815
Telephone: (916) 263-2368
Fax: (916) 263-2387
E-Mail Address: kschunke@mbc.ca.gov

Website Access: Materials regarding this proposal can be found at http://www.medbd.ca.gov/laws/regulations_proposed.html.

TITLE 16. STRUCTURAL PEST CONTROL BOARD

NOTICE IS HEREBY GIVEN that the Structural Pest Control Board is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Elihu M. Harris State of California Office

Building, 1515 Clay St., Oakland, CA, at 9:00 a.m. on July 24, 2009. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Structural Pest Control Board at its office no later than 5:00 p.m. on July 21, 2009 or must be received by the Structural Pest Control Board at the hearing. The Structural Pest Control Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by section 8525 of the Business and Professions Code, and to implement, interpret or make specific sections 8505, 8505.4, 8505.16, 8516, 8518, 8525, and 8674 of said Code, the Structural Pest Control Board is considering changes to Division 19 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

1. Repeal 1971(a)(1)(B) Fumigation Safety Kit and Other Equipment

Senate Bill 1047 Chapter 354 repealed Business and Professions (B&P) Code section 8505.15 effective January 1, 2008. This section mandated that fumigation masks be made readily available to fumigation crews. B&P Code section 8505.15 was repealed because fumigation mask requirements are established in California Department of Food and Agriculture rules and regulations.

B&P Code section 8505.15 was the statutory authority for California Code of Regulations (CCR) section 1971(a)(1)(B). The specific objective of this regulation is to repeal the subsection to avoid confusion since the fumigation mask requirements are managed by the Department of Food and Agriculture.

2. Amend 1996.3 Requirements for Reporting Property Addresses

B&P Code sections 8516 and 8518 state that the address of each property inspected or upon which work was completed shall be reported on a form prescribed by the Board.

The specific objective of this regulation is to amend form 43M-52 (Rev 05/03) to reflect the proposed WDO

inspection fee as outlined in proposed amendment to section 1997.

The form will also be amended to reflect the Board's current address.

3. Amend 1997 WDO Inspection and Completion Activity Fee

Business and Professions Code Section 8674 authorizes the Structural Pest Control Board to charge an activity form fee of not more than \$3 per address. CCR section 1997 currently has the activity reporting fee at \$1.50 per address. The Structural Pest Control Board has historically adjusted the fee to maintain a sufficient balance in reserves. Based on the housing market decline, WDO activities filed with the Board have drastically declined over the past several years. The Board's budget is projected to be a negative balance on June 30, 2010. Increasing the WDO filing fee to \$2.00 per address will stabilize the Board's budget.

The specific objective of this regulation is to amend section 1997 and increase the activity form fee to \$2.00.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The increased inspection fee will stabilize the Board's budget.

Nondiscretionary Costs/Savings to Local Agencies:
None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None

Business Impact:

The Structural Pest Control Board has made an initial determination that the proposed regulatory action would have a minimal statewide adverse economic impact directly affecting business. The \$.50 increase per activity will be, in most cases, passed onto the consumer requesting the inspection. In the instances where an inspection fee is not being charged, consumers will incur the minor increase upon contracting with the company to perform work.

Impact on Jobs/New Businesses:

The Structural Pest Control Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Structural Pest Control Board has determined that the proposed changes to section 1997 may have a minimal adverse impact to some private businesses. The increase of \$.50 per activity filed will be passed onto the consumer in most cases. Businesses that do not charge an initial inspection fee will incur the increased fee but can recoup the cost once contracting with the consumer for work to be completed.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

Section 1971 will have no affect on small businesses, as the proposal would repeal the subsection concerning fumigation masks.

Section 1996.3 will have no affect on small businesses, as the proposal would amend form 43M–52 (Rev 05/03) to include the proposed fee increase of section 1997 and to update the Board's address.

Section 1997 will have a minimal affect on small businesses because the \$.50 fee increase will, in most cases, be included in the inspection fee charged to consumers.

CONSIDERATION OF ALTERNATIVES

The Structural Pest Control Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Structural Pest Control Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Structural Pest Control Board at 2005 Evergreen Street, Suite 1500, Sacramento, California 95815.

**AVAILABILITY AND LOCATION OF THE
FINAL STATEMENT OF REASONS AND
RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Susan Saylor
Address: 2005 Evergreen Street,
Suite 1500
Sacramento, CA. 95815
Telephone No.: (916) 561-8700
Fax No.: (916) 263-2469
E-Mail Address: Susan_Saylor@dca.ca.gov

The backup contact person is:

Name: Elizabeth James
Address: 2005 Evergreen Street,
Suite 1500
Sacramento, CA. 95815
Telephone No.: (916) 561-8720
Fax No.: (916) 263-2469
E-Mail Address: Elizabeth_James@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.pestboard.ca.gov.

<p>GENERAL PUBLIC INTEREST</p>

**TITLE 2. DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING**

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or (CEIR) has been submitted and the prospective contractors are ineligible to enter into State contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further no-

tice, each of these prospective contractors in order to submit a responsive bid must present evidence that its Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.
DBA ASI Telesystems, Inc.
21150 Califa Street
Woodland Hills, CA 91367

Bay Recycling
800 77th Avenue
Oakland, CA 94621

C & C Disposal Service
P.O. Box 234
Rocklin, CA 95677

Choi Engineering Corp.
286 Greenhouse
Marketplace, Suite 329
San Leandro, CA 94579

Fries Landscaping
25421 Clough
Escalon, CA 95320

Marinda Moving, Inc.
8010 Betty Lou Drive
Sacramento, CA 95828

MI-LOR Corporation
P.O. Box 60
Leominster, MA 01453

Peoples Ridesharing
323 Fremont Street
San Francisco, CA 94105

San Diego Physicians & Surgeons Hospital
446 26th Street
San Diego, CA

Southern CA Chemicals
8851 Dice Road
Santa Fe Springs, CA 90670

Tanemura and Antle Co.
1400 Schilling Place
Salinas, CA 93912

Turtle Building Maintenance Co.
8132 Darien Circle
Sacramento, CA 95828

Univ Research Foundation
8422 La Jolla Shore Dr.
La Jolla, CA 92037

Vandergoot Equipment Co.
P.O. Box 925
Middletown, CA 95461

**DEPARTMENT OF HEALTH CARE
SERVICES**

Public Notice (OAL)

**Addition of a Contract list for Blood Factors for
Medi-Cal Fee-For-Service beneficiaries**

AB1183, chapter 758, statutes of 2008 enacted changes to Welfare and Institution Code which require the Department of Health Care Services (DHCS) to collect a state rebate on clotting factors for Medi-Cal fee-for-service, Genetically Handicapped Persons Program (GHPP), and California Children's Services (CCS) recipients. Effective July 1, 2009, the DHCS will begin collecting a state rebate on blood factors as identified in Welfare and Institution Code 14105.86(a)(2). Manufacturers who do not execute an agreement to pay additional rebates shall have their blood factors available only through an approved treatment or service authorization request. The Medi-Cal provider manual shall list blood factors which require or do not require a treatment or service authorization.

A Medi-Cal fee-for-service beneficiary may obtain a blood factor product which requires a treatment or service authorization without a treatment or service authorization from a pharmacy provider if the beneficiary qualifies for continuing care status. To be eligible for continuing care status a beneficiary must be utilizing the factor product and a pharmacy claim must have been paid for that beneficiary and for that product by the DHCS with a date of service within the last 100 days without a treatment or service authorization. A beneficiary may remain eligible for continuing care status, provided a pharmacy claim is submitted for the same product at least every 100 days.

FISH AND GAME COMMISSION

**CALIFORNIA FISH AND GAME
COMMISSION**

NOTICE OF FINDINGS

**American Peregrine Falcon
(*Falco peregrinus anatum*)**

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2075.5 of the Fish and Game

Code, the California Fish and Game Commission ("Commission"), at its December 12, 2008, meeting in Sacramento, made a finding that the petitioned action to remove the American Peregrine Falcon (*Falco peregrinus anatum*) from the list of endangered species is warranted.

In making this finding, the Commission concludes that the peregrine falcon's continued existence is no longer threatened by any one or a combination of the following factors: Present or threatened modification or destruction of its habitat, Overexploitation, Predation, Competition, Disease, or other natural occurrences or human-related activities. Specifically, the basis for the delisting relied most heavily on the following: 1) Current American peregrine falcon breeding range in California includes most of the known historic breeding range; 2) American peregrine falcon breeding population size has increased dramatically following State and federal listing as endangered and may have reached or even exceeded historical levels within California, as best as can be determined from the historic population data; 3) The threat posed to the peregrine falcon nesting populations in California by organochlorine pesticide contamination has lessened due to the restrictions imposed on the use of such substances in the United States and Canada since the 1970's. However, "hot spots" remain in the State; these areas need continued evaluation to monitor their impact on peregrine recovery; 4) Recovery goals specific to California populations of peregrine falcons as established through the federal recovery plan for the Pacific States have been met for range and population size; productivity goals have been met at most sites in California; 5) The U.S. Fish and Wildlife Service (Service) delisted the peregrine falcon from the federal endangered species list in 1999 and established a monitoring program, contingent on funding, to document breeding status of this species through the year 2015. A sub-set of 30 nest sites will be monitored in California every three years, providing current occupancy and productivity data for the State's peregrine population; and 6) The captive breeding and reintroduction program established in the 1970's and continued through 1992 was highly successful in aiding the recovery of the peregrine in California.

It is anticipated that the Commission will ratify the findings at a hearing to be held at the Yolo Fliers Club, Ballroom, 17980 County Road 94B, Woodland, California, on Thursday, June 25, 2009, at 8:30 a.m., or as soon thereafter as the matter may be heard.

OAL REGULATORY DETERMINATION

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATIONS

**(Pursuant to Government Code Section 11340.5
and Title 1, section 270, of the
California Code of Regulations)**

DEPARTMENT OF MENTAL HEALTH

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW

**2009 OAL DETERMINATION NO. 12
(OAL FILE NO. CTU2008-1218-01)**

REQUESTED BY: MICHAEL ST. MARTIN
CONCERNING: Special Order No. 130.01
Titled "The By Choice Incentive System" Issued by the Department of Mental Health

**DETERMINATION ISSUED
PURSUANT TO GOVERNMENT CODE SECTION
11340.5.**

SCOPE OF REVIEW

A determination by the Office of Administrative Law (OAL) evaluates whether or not an action or enactment by a state agency complies with California administrative law governing how state agencies adopt regulations. Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. Our review is limited to the sole issue of whether the challenged rule meets the definition of "regulation" as defined in Government Code section 11342.600¹ and is subject to the Administrative Procedure Act (APA). If a rule meets the definition of "regulation," but was not adopted pursuant to the APA and should have been, it is an "underground regulation" as defined in California

¹ Unless otherwise specified, all references are to the Government Code.

Code of Regulations, title 1, section 250.² OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

CHALLENGED RULE

The challenged rule is Special Order No. 130.01, titled "The By Choice Incentive System" (Special Order), issued by the Department of Mental Health (Department). The Special Order outlines the policy for the "By Choice" incentive program for all state hospitals under the jurisdiction of the Department and contains the requirements related to the "By Choice" incentive system that each state hospital must implement. The challenged rule is attached hereto as Exhibit A.

DETERMINATION

OAL determines that Special Order No. 130.01, titled "The By Choice Incentive System," meets the definition of "regulation" that should have been adopted pursuant to the APA.

FACTUAL BACKGROUND

The Department is a state agency responsible for the care and treatment of individuals with mental illness at the five state mental hospitals (Atascadero, Metropolitan, Napa, Coalinga and Patton State Hospitals). The state hospitals provide inpatient psychiatric care to individuals committed to the hospitals civilly or in connection with criminal proceedings.

On August 25, 2006, the Department issued Special Order No. 130.01, titled "The By Choice Incentive System." The Special Order states that it:

. . . outlines the policy for the "By Choice" incentive program for all Department of Mental Health State Hospitals. Each State Hospital shall incorporate this policy into their "By Choice" Administrative Directive without interpretation. The state hospital administrative directives shall contain the definitions and procedures that are used within this Special Order.

The Special Order defines the By Choice Incentive System as:

² As defined by title 1, section 250(a), an "Underground regulation" means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

. . . an element of the individual's Wellness and Recovery Plan (WRP) and is imbedded within the hospital's therapeutic milieu. It is intended to support the recovery of individuals through the planned use of incentives and rewards. The BY CHOICE system uses points to reward routine positive behaviors that have been identified by the individuals and their Wellness and Recovery Teams as aspects of their recovery throughout their day. These points may be redeemed for desirable items or activities. In the BY CHOICE system, the individuals determine how they will allocate and earn their points.

The Special Order contains requirements the state hospitals must implement. For example:

- Individuals may earn a maximum of 100 points daily. The points are allocated by the individuals in consultation with their Wellness and Recovery Teams. Once earned, points shall never be deducted, cancelled, or in any way negated by staff.
- Individuals redeem their points for desirable items or activities in incentive stores established by the hospital for this purpose.
- Items and activities in the stores are selected and "priced" according to a recovery-focused, wellness economy.
- Evaluation data shall be aggregated and included in each hospital's Monthly Monitoring Report.
- The Chief of Psychology is responsible for the clinical appropriateness of the design, operation, and evaluation of the By Choice Incentive System as detailed in the By Choice Manual. Changes in the Manual can be made only by the statewide By Choice Committee.
- The By Choice Coordinator shall be responsible for maintaining the operation and consistent application of the By Choice System and for various other monitoring and coordinating duties.
- All unit staff and providers shall be trained in the correct implementation of the By Choice Incentive System.

On December 18, 2008, Michael St. Martin (Petitioner) submitted a petition to OAL. The Petitioner alleges that the Special Order meets the definition of a "regulation" in Government Code section 11342.600 and should have been adopted as a regulation pursuant to the APA. OAL accepted the petition for consideration on January 8, 2009.

The petition was published in the Notice Register on January 23, 2009, and the period during which public comments were accepted ended on February 23, 2009. OAL did not receive any public comments.

The Department did not submit a response to the petition.

UNDERGROUND REGULATIONS

Government Code section 11340.5, subdivision (a), provides that:

(a) No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in [Government Code] Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to [the APA].

When an agency issues, utilizes, enforces, or attempts to enforce a rule in violation of section 11340.5 it creates an underground regulation as defined in title 1, California Code of Regulations, section 250.

OAL may issue a determination as to whether or not an agency issues, utilizes, enforces, or attempts to enforce a rule that meets the definition of "regulation" as defined in section 11342.600 and should have been adopted pursuant to the APA. An OAL determination that an agency has issued, utilized, enforced, or attempted to enforce an underground regulation is not enforceable against the agency through any formal administrative means, but it is entitled to "due deference" in any subsequent litigation of the issue pursuant to *Grier v. Kizer* (1990) 219 Cal.App.3d 422 [268 Cal.Rptr. 244].

ANALYSIS

OAL's authority to issue a determination extends only to the limited question of whether the challenged rule is a "regulation" subject to the APA. This analysis will determine (1) whether the challenged rule is a "regulation" within the meaning of section 11342.600, and (2) whether the challenged rule falls within any recognized exemption from APA requirements.

A "regulation" is defined in section 11342.600 as:

. . . every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

In *Tidewater Marine Western, Inc. v. Victoria Bradshaw* (1996) 14 Cal.4th 557, 571 [59 Cal.Rptr.2d 186], the California Supreme Court found that:

A regulation subject to the Administrative Procedure Act (APA) (Gov. Code, § 11340 et seq.) has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. Second, the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency's procedure (Gov. Code, § 11342, subd. (g)).³

The first element used to identify a "regulation" as stated in *Tidewater* is whether the rule applies generally. As *Tidewater* points out, a rule need not apply to all persons in the state of California. It is sufficient if the rule applies to a clearly defined class of persons or situations. The Special Order applies to state hospitals, hospital staff and the individuals committed to the care of the state hospitals. Each of these groups is a clearly defined class of persons.

The first element of "regulation" has, therefore, been met.

The second element used to identify a "regulation" as stated in *Tidewater* is that the rule must implement, interpret or make specific the law enforced or administered by the agency, or govern the agency's procedure. Welfare and Institutions Code section 4100 states:

The department has jurisdiction over the following institutions:

- (a) Atascadero State Hospital.
- (b) Coalinga State Hospital.
- (c) Metropolitan State Hospital.
- (d) Napa State Hospital.
- (e) Patton State Hospital.

Further, Welfare and Institutions Code section 7200 deals specifically with mentally disordered individuals and provides:

There are in the state the following state hospitals for the care, treatment, and education of the mentally disordered:

- (a) Metropolitan State Hospital near the City of Norwalk, Los Angeles County.
- (b) Atascadero State Hospital near the City of Atascadero, San Luis Obispo County.
- (c) Napa State Hospital near the City of Napa, Napa County.
- (d) Patton State Hospital near the City of San Bernardino, San Bernardino County.
- (e) Coalinga State Hospital near the City of Coalinga, Fresno County.

State hospitals provide services to individuals committed to the Department pursuant to a variety of statutory provisions. For example:

- The Lanterman–Petris–Short Act (LPS)⁴, at Welfare and Institutions Code section 5001, provides for the care for mentally disordered persons, developmentally disabled persons, and persons impaired by chronic alcoholism.
- Individuals determined to be Sexually Violent Predators pursuant to Welfare and Institutions Code section 6604.
- Individuals found to be not guilty by reason of insanity pursuant to Penal Code section 1026.
- Individuals found to be mentally incompetent to stand trial pursuant to Penal Code section 1370.

To encompass this wide variety of individuals, the legislative grant to the Department of jurisdiction and authority over state hospitals is found in two separate sections, Welfare and Institutions Code sections 4101 and 7201. Welfare and Institutions Code section 4101 generally requires:

Except as otherwise specifically provided elsewhere in this code, all of the institutions under the jurisdiction of the State Department of Mental Health shall be governed by uniform rule and regulation of the State Department of Mental Health and all of the provisions of this chapter shall apply to the conduct and management of such institutions.

Welfare and Institutions Code section 7201 requires:

All of the institutions under the jurisdiction of the State Department of Mental Health shall be governed by the uniform rules and regulations of the State Department of Mental Health and all of the provisions of Part 2 (commencing with Section 4100) of Division 4 of this code on the administration of state institutions for the mentally disordered shall apply to the conduct and management of the state hospitals for the mentally disordered. . . .

As stated in the Special Order, the purpose of the Special Order is to provide ". . . general guidelines for the consistent implementation and monitoring of the BY CHOICE system in each state hospital." It does this by establishing specific requirements with which every state hospital must comply. These requirements include the maximum number of points an individual may earn each day; the aggregation of evaluation data; the responsibilities of state hospital staff; etc. The imposition of these requirements by the Department establishes a "uniform rule and regulation" for the By Choice System in state hospitals as required by Welfare and Institutions

³ Section 11342(g) was re-numbered in 2000 to section 11342.600 without substantive change.

⁴ The Lanterman–Petris–Short Act is found at Welfare and Institutions Code section 5000 et seq.

Code sections 4101 and 7201 for the administration, conduct and management of the state hospitals. The Special Order, therefore, implements, interprets and makes specific Welfare and Institutions Code sections 4101 and 7201.

The second element of “regulation” has been met; therefore, the Special Order meets the definition of “regulation” in Government Code section 11342.600.

The final issue to examine is whether the challenged rule falls within an express statutory exemption from the APA. Exemptions from the APA can be general exemptions that apply to all state rulemaking agencies. Exemptions may also be specific to a particular rulemaking agency or a specific program. Pursuant to section 11346, the procedural requirements established in the APA “shall not be superseded or modified by any subsequent legislation *except to the extent that the legislation shall do so expressly.*” (Emphasis added.)

The Department did not identify an express statutory exemption from the APA that would apply to the Special Order, nor did OAL find such an exemption.

CONCLUSION

In accordance with the above analysis, OAL determines that Special Order No. 130.01, titled “The By Choice Incentive System” meets the definition of “regulation” that should have been adopted pursuant to the APA.

Date: May 20, 2009

SUSAN LAPSLEY
Director

Kathleen Eddy
Senior Counsel

Cc: Hon Chan

Exhibit A

CALIFORNIA DEPARTMENT OF MENTAL HEALTH

SPECIAL ORDER

Section 100–199: Clinical Services

Special Order Number: 130.01 Effective Date: August 25, 2006
Replaces: 130

**Subject: THE BY CHOICE INCENTIVE
SYSTEM**

Special Order: This Special Order outlines the policy for the “By Choice” incentive program for all

Department of Mental Health State Hospitals. Each State Hospital shall incorporate this policy into their “By Choice” Administrative Directive without interpretation. The state hospital administrative directives shall contain the definitions and procedures that are used within this Special Order.

In order to meet the safety and security concerns within a correctional environment, DMH’s Vacaville Psychiatric Program and Salinas Valley Psychiatric Program shall implement the STEP/STAGE Program and shall outline within their respective administrative directives and/or program manuals the definitions and procedures related to the STEP/STAGE Program.

Authority: By order of the Deputy Director Long Term Care Services.

Purpose: This directive provides general guidelines for the consistent implementation and monitoring of the BY CHOICE system in each state hospital. Other details are provided in the BY CHOICE Manual.

Method:

I. Definition

The BY CHOICE incentive system is an element of the individual’s Wellness and Recovery Plan (WRP) and is imbedded within the hospital’s therapeutic milieu. It is intended to support the recovery of individuals through the planned use of incentives and rewards. The BY CHOICE system uses points to reward routine positive behaviors that have been identified by the individuals and their Wellness and Recovery Teams as aspects of their recovery throughout their day. These points may be redeemed for desirable items or activities. In the BY CHOICE system, the individuals determine how they will allocate and earn their points.

II. Policy

- A. During the course of each day, unit staff and Mall providers use the BY CHOICE system to positively reinforce adaptive and socially desirable behavior of the individuals and to motivate them to further their recovery.
- B. BY CHOICE Manual. The BY CHOICE Manual provides staff with details of the incentive system. Unit and Mall staff shall follow the procedures described in the BY CHOICE Manual.
- C. Points. Individuals may earn a maximum of 100 points daily. The points are allocated by the individuals in consultation with their Wellness and Recovery Teams. Points may be re-allocated by the individuals and their Wellness and Recovery Teams during scheduled reviews of their Wellness and Recovery Plans. Once earned, their points shall never be deducted, cancelled, or in any

other way negated by staff. The points may be redeemed or saved by the individuals at their discretion.

D. BY CHOICE Economy. Individuals may purchase items and activities with the points they have earned.

1. Store. Individuals redeem their points for desirable items or activities in incentive stores established by the hospital for this purpose. The incentive stores are open at scheduled times. Each hospital will provide individuals reasonable access to the stores for redeeming their points.
2. Selection criteria. Items and activities in the stores are selected and "priced" according to a recovery-focused, wellness economy. Individuals shall not be denied access to items or privileges that they might reasonably expect to receive by virtue of being in the hospital. Each hospital shall ensure that the selection of redeemable items and activities are consistent with the individuals' rights as defined in policy.

E. Evaluation. The consistent and appropriate operation of the BY CHOICE System and its success at furthering the recovery of individuals shall be formally evaluated by direct observation and systematic outcome measurements. Evaluation data shall be aggregated and included in each hospital's Monthly Monitoring Report.

F. Responsibility.

- 1 The Chief of Psychology is responsible for the clinical appropriateness of the design, operation, and evaluation of the BY CHOICE Incentive System as detailed in the BY CHOICE Manual. Changes in the Manual can be made only by the statewide BY CHOICE Committee.
2. Each hospital shall appoint at a supervisory level an appropriately skilled individual to be the full-time BY CHOICE Coordinator who is responsible for the overall operation of the BY CHOICE System. Each hospital shall also appoint a full-time Assistant BY CHOICE Coordinator.

3. The BY CHOICE Coordinator shall be responsible for:

- a. Maintaining the BY CHOICE System's operation and consistent application on the units/programs and in the Malls;
- b. Coordinating the hospital-wide training of staff on the BY CHOICE System;
- c. Monitoring the quality of the training provided to staff on the BY CHOICE System;
- d. Assisting in the integration of the BY CHOICE System into the hospital's therapeutic milieu and culture;
- e. Assisting, the statewide BY CHOICE Committee to update the BY CHOICE Manual annually, or more frequently as needed;
- f. Coordinating data collection on fidelity and outcome evaluation; and
- g. Facilitating endeavors toward the proper operation of the incentives stores.

4. Enhancement Program Directors and Mall Coordinators are responsible for ensuring adequate resources and staff to administer the BY CHOICE System on units/programs and Malls, respectively.

5. Executive Directors and Hospital Administrators shall ensure adequate and consistent funding for the incentive stores, and coordinate budgetary oversight through the BY CHOICE Coordinator.

6. The Executive Directors shall ensure that data are collected, aggregated, analyzed and reported in the hospital's Monthly Monitoring Report.

G. Training: All unit staff and mall providers shall be trained in the correct implementation of the BY CHOICE Incentive System. All new employees who work as unit staff or mall providers shall receive similar training though the New Employee Orientation Program. Once trained, all unit staff and Mall providers will receive additional training, as needed, to maintain their competency in implementing the BY CHOICE System.

Signature on File
CYNTHIA A. RADAVSKY, Deputy Director
Long Term Care Services
Department of Mental Health

August 25, 2006
Date

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2009-0409-01
BOARD OF BEHAVIORAL SCIENCES
Fingerprint Submission

This rulemaking amends California Code of Regulations, Title 16 section 1886.4 and adopts section 1815 to require all licensees who have not previously submitted fingerprints to DOJ to complete a state and federal level criminal offender record information search through the DOJ before renewal of their license. This rulemaking also allows the Board to take disciplinary action and to assess a fine not to exceed \$5,000 for each violation.

Title 16
California Code of Regulations
ADOPT: 1815 AMEND: 1886.40
Filed 05/20/2009
Effective 06/19/2009
Agency Contact: Tracy Rhine (916) 574-7847

File# 2009-0416-01
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
Training & Testing Specifications for Peace Officer Basic Courses

This regulatory action revises the training and testing specifications for peace officer basic courses to standardize the testing specifications and make additional updates to the training as part of ongoing review.

Title 11
California Code of Regulations
AMEND: 1005, 1007, 1008
Filed 05/21/2009
Effective 07/01/2009
Agency Contact: Julie Hemphill (916) 227-0544

File# 2009-0520-01
DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth

This emergency regulatory action will establish a new regulated quarantine area in the Davis area of Yolo County of approximately 38 square miles. This would result in a total of approximately 2,780 square miles under regulation within the

State for the light brown apple moth "LBAM" ("Epiphyas postvittana") due to recent findings of the pest. The effect of these amendments to the regulation is to establish the authority for the State to perform quarantine activities against the LBAM in this new area.

Title 3
California Code of Regulations
AMEND: 3434(b)
Filed 05/26/2009
Effective 05/26/2009
Agency Contact:
Stephen S. Brown (916) 654-1017

File# 2009-0415-01
DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth Interior Quarantine

This certificate of compliance makes permanent four prior emergency regulatory actions (OAL file nos. 2008-1016-01E, 2008-1105-02E, 2008-1205-03E and 2009-0108-01E) that established new regulated quarantine areas or expanded existing regulated quarantine areas in the counties of Sonoma, Napa, Alameda, Contra Costa, Santa Clara, Monterey, San Benito, Santa Cruz and San Mateo for the light brown apple moth "LBAM" ("Epiphyas postvittana") due to recent findings of the pest. The effect of these amendments to the regulation is to establish the authority for the State to perform quarantine activities against LBAM in these additional areas.

Title 3
California Code of Regulations
AMEND: 3434(b)
Filed 05/20/2009
Effective 05/20/2009
Agency Contact:
Stephen S. Brown (916) 654-1017

File# 2009-0515-02

DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth

This emergency regulatory action will establish a new regulated area in the Petaluma area of Sonoma County of approximately 40 square miles, expand the regulated area of Napa County by approximately 20 square miles and expand the regulated area in the counties of Alameda, Contra Costa and Santa Clara by approximately 85 square miles. This would result in a total of approximately 2,742 square miles under regulation within the State for the light brown apple moth "LBAM" ("Epiphyas postvittana") due to recent findings of the pest. The effect of these amendments to the regulation is to establish the authority for the State to perform quarantine activities against LBAM in these additional areas.

Title 3

California Code of Regulations

AMEND: 3434(b)

Filed 05/20/2009

Effective 05/20/2009

Agency Contact:

Stephen S. Brown

(916) 654-1017

File# 2009-0417-04

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Federal HOME Investment Partnership Program

This rulemaking amends section 8217(c) of Title 25 of the California Code of Regulations regarding the federal Home Investment Partnership Program. The rulemaking amends this subsection so as to make it clear that the discretionary exception available from the Department of Housing and Community Development for violations of project requirements applies only to violations which are clearly outside of the control of all members of the development team. The rulemaking further amends this subsection by deleting the provision which limited the availability of this exception to contractors which had not missed three deadlines on a prior project, because, as a result of current economic conditions relevant to housing construction, the missing of three such deadlines on a project is often well beyond the control of the members of a development team.

Title 25

California Code of Regulations

AMEND: 8217

Filed 05/20/2009

Effective 05/20/2009

Agency Contact: Lenora Frazier

(916) 323-4475

File# 2009-0515-03

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Re-adoption of Ignition Resistance Construction System within Wildfire Urban Interface

This is the second readopt of an emergency regulatory action (prior OAL file nos. 2008-0820-01ER and 2009-0205-02EE) that incorporates by reference the new OSFM building standards (Title 24, California Building Code, Part 2, Chapter 7A) recently approved by the California Building Standards Commission and applies them to manufactured homes, mobilehomes, multifamily manufactured housing, and commercial modulars built or installed in a Wildland-Urban Interface Fire Area. This will provide minimum standards for the design, materials and construction methods for roofs, roof coverings, roof assemblies, attic eaves and cornice vents, and exterior wall coverings for manufactured homes, mobilehomes, multifamily manufactured housing, or commercial modulars in order to resist the intrusion of flame or burning embers projected by a vegetation fire on or into these structures in the same manner as conventionally constructed structures. These regulations also establish requirements for third-party approval of design plans for ignition resistant construction systems and third-party inspections in the manufacturing facility, and establish requirements for Department approval of the design and construction of the ignition resistant construction system if the structure has already left the manufacturing facility.

Title 25

California Code of Regulations

ADOPT: 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216

Filed 05/22/2009

Effective 05/26/2009

Agency Contact: Ruth Ibarra

(916) 327-2796

File# 2009-0410-02

DEPARTMENT OF MOTOR VEHICLES

Business Partner Automation Program

Department of Motor Vehicles submitted this action to amend the Title 13 Business Partner Automation (BPA) program regulations and the incorporated by reference BPA Transaction Procedures and Inventory Requirements Handbook and forms to allow and clarify new transaction types, and to provide greater clarity on document requirements, transaction related fees, and inventory requirements for BPA program participants.

Title 13
California Code of Regulations
ADOPT: 225.38 AMEND: 225.00, 225.03, 225.06,
225.09, 225.21, 225.35, 225.45, 225.48, 225.54,
225.72
Filed 05/22/2009
Effective 06/21/2009
Agency Contact: Christie Patrick (916) 657-5567

File# 2009-0427-01
EMPLOYMENT DEVELOPMENT DEPARTMENT
Disability Insurance Definitions

This rulemaking amends California Code of Regulations, Title 22, section 2601-1 to establish definitions and clarify terms utilized in Employment Development Department (EDD) regulations dealing with State Disability Insurance. EDD is developing new automation processes and protocol to simplify and improve claim processes. This is an effort to improve access to services, improve service delivery, reduce costs and also improve EDD's ability to detect and prevent fraud and abuse. In order to facilitate this change EDD is establishing definitions for terms, including "affidavit", "copy", "form", "mail", "signature" and "writing."

Title 22
California Code of Regulations
AMEND: 2601-1
Filed 05/21/2009
Effective 06/20/2009
Agency Contact: Laura Colozzi (916) 654-7712

File# 2009-0421-02
FAIR POLITICAL PRACTICES COMMISSION
Materiality Standard: Interests in Businesses

The Fair Political Practices Commission is amending section 18705.1, title 2, California Code of Regulations, entitled "Materiality Standard: Economic Interests in Business Entities."

Title 2
California Code of Regulations
AMEND: 18705.1
Filed 05/21/2009
Effective 06/20/2009
Agency Contact:
Virginia Latteri-Lopez (916) 324-3854

File# 2009-0423-03
FISH AND GAME COMMISSION
Silver King Creek Sport Fishing

This regulatory action raises the daily bag and possession limit to 10 trout per day and 10 in possession for Silver King Creek and tributaries from the confluence

with Tamarack Lake Creek downstream to the confluence with Snodgrass Creek.

Title 14
California Code of Regulations
AMEND: 7.50(b)(178)
Filed 05/21/2009
Effective 05/21/2009
Agency Contact:
Sherrie Fonbuena (916) 654-9866

File# 2009-0501-02
FISH AND GAME COMMISSION
Central Valley Salmon Sport Fishing

This action closes all salmon sport fishing and prohibits all methods of targeting salmon in Central Valley rivers and streams with a few exceptions.

Title 14
California Code of Regulations
AMEND: 7.00, 7.50
Filed 05/26/2009
Effective 05/26/2009
Agency Contact:
Sherrie Fonbuena (916) 654-9866

File# 2009-0410-01
FRANCHISE TAX BOARD
Presumptions Arising from Federal Audits

This rulemaking amends section 25114 of title 18 of the California Code of Regulations to implement provisions of SB 788, Chapter 306 of 2007, which removed the requirement that the Franchise Tax Board audit every taxpayer whose tax return reveals potential non-compliance with arm's-length dealing requirements following a preliminary examination. The rulemaking changes some terminology and defines any new terms. It also establishes when a taxpayer's examination is considered to have commenced and what tax year the new rule applies to.

Title 18
California Code of Regulations
AMEND: 25114
Filed 05/21/2009
Effective 06/20/2009
Agency Contact:
Colleen Berwick (916) 845-3306

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN December 24, 2008 TO
May 27, 2009**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with

the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

01/20/09 AMEND: 260
01/20/09 AMEND: Appendix A, Std. Form 400

Title 2

05/21/09 AMEND: 18705.1
05/14/09 ADOPT: 21000, 21001, 21002, 21003, 21004, 21005, 21006, 21007, 21008, 21009
05/08/09 ADOPT: 18410 AMEND: 18402
04/30/09 AMEND: 1859.129, 1859.197
04/28/09 AMEND: div. 8, ch. 111, section 59560
04/22/09 ADOPT: 1859.148.2, 1859.166.2
AMEND: 1859.2, 1859.121, 1859.164.2, 1859.197
03/05/09 AMEND: 18704
02/17/09 AMEND: 51.3
02/02/09 AMEND: 18402, 18450.3
01/30/09 ADOPT: 18427.5
01/30/09 ADOPT: 18421.8, 18521.5 AMEND: 18401
01/27/09 AMEND: 2294
01/26/09 AMEND: 1859.104.1
01/21/09 ADOPT: 1859.184.1 AMEND: 1859.2, 1859.103, 1859.184
01/12/09 AMEND: div. 8, ch. 24, secs. 45100, 45127, 45128
01/08/09 ADOPT: 18420.1
01/08/09 ADOPT: 18944.3 AMEND: 18944.1
12/30/08 AMEND: 714
12/29/08 ADOPT: 2298

Title 3

05/26/09 AMEND: 3434(b)
05/20/09 AMEND: 3434(b)
05/20/09 AMEND: 3434(b)
05/13/09 AMEND: 6800
05/04/09 AMEND: 3434(b)
04/27/09 AMEND: 3434(b)
04/20/09 AMEND: 6452.2
03/30/09 AMEND: 3434(b)
03/25/09 AMEND: 6860
03/23/09 AMEND: 3423(b)
03/19/09 ADOPT: 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222.1, 1222.4, 1209, 1209.1, 1245.1, 1245.2, 1245.3, 1245.4, 1260.2, 1269, 1269.1, 1269.2, 1271 AMEND: 1200, 1201, 1202, 1204, 1205, 1206, 1207, 1208, 1222, 1223, 1223.1, 1235,

1236, 1238, 1239, 1240, 1241, 1242, 1243, 1244, 1245, 1245.1, 1245.2, 1245.3, 1245.4, 1245.5, 1245.6, 1245.7, 1245.8, 1245.9, 1245.10, 1245.11, 1245.12, 1245.13, 1245.14, 1245.15, 1245.16, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1260.1, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1269, 1270 REPEAL: 1203, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1224, 1225, 1226, 1227, 1228, 1229, 1230, 1231, 1237

03/18/09 AMEND: 3435(b)
03/10/09 AMEND: 3434
03/05/09 AMEND: 3591.20(a)
03/04/09 AMEND: 3435
02/27/09 AMEND: 3434(b)
02/26/09 AMEND: 850
02/19/09 AMEND: 3434(b)
02/13/09 AMEND: 3406(b)
02/10/09 AMEND: 3060.4(a)(1)(C)(1), 3652(k)
02/05/09 AMEND: 3434(b)
02/02/09 AMEND: 3406(b)
01/21/09 ADOPT: 3591.22(a), 3591.22(b), 3591.22(c), 3591.22(d)
01/21/09 ADOPT: 3591.21(a), 3591.21(b), 3591.21(c)
01/20/09 REPEAL: 3664, 3665, 3666, 3667, 3668, 3669
01/14/09 AMEND: 3434(b)
01/13/09 AMEND: 3434(b)
01/12/09 AMEND: 3589(a)
12/30/08 AMEND: 3417(b)

Title 4

05/18/09 ADOPT: 12488, 12508, 12510, 12511, 12514 AMEND: 12480, 12486
05/18/09 ADOPT: 12482
05/12/09 AMEND: 406
05/12/09 ADOPT: 12591
04/24/09 ADOPT: 12480, 12492, 12494, 12496, 12498, 12499, 12501, 12502, 12504
AMEND: 12482
04/24/09 AMEND: 12482
03/23/09 AMEND: 10175, 10176, 10177, 10182, 10185, 10187, 10188, 10189, 10190
03/11/09 AMEND: 1865
03/10/09 ADOPT: 12388, 12410
03/05/09 ADOPT: 2066
03/05/09 ADOPT: 1504.5 AMEND: 1481, 1486
03/04/09 AMEND: 2073
02/23/09 ADOPT: 8102, 8102.1, 8102.2, 8102.3, 8102.5, 8102.6, 8102.7, 8102.8, 8102.9,

	8102.11, 8102.12, 8102.13, 8102.14, 8102.15 AMEND: 8090, 8091, 8092, 8093, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101 REPEAL: 8102.10		2908, 2910, 2931, 2932, 2933, 2934, 2935, 2946, 2974 REPEAL: 2742
02/13/09	ADOPT: 12362	03/04/09	AMEND: 3248
02/11/09	ADOPT: 8078.1 AMEND: 8070, 8072, 8076, 8078	03/02/09	ADOPT: 15475.1, 15475.2, 15475.3, 15482, 15482.1, 15482.2, 15483, 15484, 15485, 15486, 15486.1, 15487, 15488, 15489, 15489.1, 15490, 15490.1, 15491, 15496, 15497, 15497.1, 15498, 15499, 15499.5 AMEND: 15201, 15203, 15203.1, 15203.2, 15203.3, 15203.4, 15203.5, 15203.6, 15203.7, 15203.8, 15203.9, 15203.10, 15204, 15205, 15210, 15210.1, 15210.2, 15210.3, 15211, 15211.1, 15211.2, 15215, 15230, 15251, 15353, 15360, 15405, 15470, 15471, 15472, 15473, 15474, 15475, 15476, 15477, 15478, 15479, 15480, 15481, 15601.7
01/13/09	ADOPT: 4027, 4027.1, 4027.2, 4027.3, 4027.4, 4027.5		
12/29/08	AMEND: 12482		
Title 5			
05/11/09	AMEND: 80023, 80024.4, 80024.5, 80024.6, 80025.5, 80026, 80026.1, 80026.6, 80034.5 REPEAL: 80024.3, 80026.4, 80042, 80042.5, 80569		
05/11/09	AMEND: 24002, 24003, 24005		
05/07/09	ADOPT: 3090, 3090.1, 3091, 3092, 3093, 3094, 3095, 3096, 3096.1, 3096.2, 3097, 3098, 3098.1, 3098.2, 3099	03/02/09	AMEND: 3209, 3299, 4885, 5049, 5085, 5152, 5193, 5207, 5215, 5297, 5299, 5302, 5304, 5449, 6402, 6503, 6600
04/30/09	ADOPT: 26000		
03/27/09	AMEND: 3001, 3051, 3060, 3061, 3062, 3063, 3064, 3065, 3066, 3067, 3068, 3069, 3070	02/25/09	REPEAL: 10116.4, 10122, 10122.1, 10123, 10123.2, 10123.3, 10124, 10124.1, 10125, 10125.1, 10125.2, 10125.3, 10126, 10127, 10127.1, 10127.2, 10127.3, 10128, 10129, 10129.1, 10130, 10131, 10131.1, 10131.2, 10132, 10132.1, 10133, 10133.2, 10133.4, 10133.10, 10133.11, 10133.12, 10133.13, 10133.14, 10133.15, 10133.16, 10133.17, 10133.18, 10133.19, 10133.20, 10133.21, 10133.22
03/05/09	AMEND: 80225		
02/17/09	AMEND: 80413, 80487	02/18/09	AMEND: 3664, 3732, 3737, 3944, 4186, 4307.1, 4345, 4353, 4354
02/04/09	ADOPT: 9800, 9810, 9820, 9830	02/13/09	AMEND: 3336, 3650, 3653
01/20/09	ADOPT: 9517.1	02/09/09	AMEND: 3231, 3277, Appendix B Following Section 3299, Appendix A following Section 3326, 3340, 3341, 3575, Appendices A, B, C, D, E, F, G following Section 3583
01/05/09	AMEND: 80004	01/29/09	AMEND: 4994
Title 8			
05/01/09	AMEND: 3030, 3037, 3089, 3097, 3098, 3101, 3107	01/28/09	AMEND: 4999
05/01/09	AMEND: 4530	01/20/09	AMEND: Appendix B following sections 1529, 5208, 8358
04/20/09	AMEND: 10100.2, 10101.1, 10103.2, 10104, 10105, 10106.1, 10106.5, 10107.1, 10108, 10109, 10111.1, 10111.2, 10112, 10113.4, 10113.5, 10114.2, 10115, 10115.1, 10115.2	01/15/09	AMEND: 2500.7
04/06/09	ADOPT: 227, 314, 389 AMEND: 281, 303, 323, 368, 523	01/13/09	ADOPT: 29, 31.1, 31.3, 31.7, 32.6, 36.5, 41.5, 41.6, 41.7, 63, 120, 121, 122, 123, 124 AMEND: 1, 10, 11, 11.5, 12, 13, 14, 15, 16, 17, 18, 19, 20, 30, 30.5, 31, 31.5, 32, 33, 34, 35, 35.5, 36, 38, 39, 39.5, 40, 41, 43, 44, 45, 46, 46.1, 47, 49, 49.2, 49.4, 49.6, 49.8, 49.9, 50, 51, 52, 54, 55, 56, 57,
04/01/09	ADOPT: 2710.1, 2716.1, 2718, 2718.1, 2738, 2739.0, 2739.4, 2742.0, 2742.1, 2742.2, 2742.3, 2745.0, 2745.1, 2749.2, 2754.1, 2754.2, 2796, 2799.1, 2799.2, 2799.3, 2799.4, 2799.5, 2799.6, 2812.2, 2812.3, 2832, 2833.1, 2833.2, 2882.2, 2985.0, 2985.1, 2985.2, 2987.0, 2987.1, 2989.0, 2989.1 AMEND: 2700, 2706, 2707, 2710, 2712, 2714, 2715, 2725, 2735, 2739.1, 2743, 2745.2, 2749.1, 2753, 2790, 2791, 2792, 2795, 2797, 2799.0, 2805, 2810, 2812.1, 2816, 2819, 2820, 2833, 2845, 2847, 2863, 2873, 2874, 2875, 2880, 2882.1, 2890, 2893,		

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	60, 61, 62, 65, 100, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 116, 117, 118, 119, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159 REPEAL: 10.5, 32.5, 37, 53, 70, 71, 72, 73, 74, 75, 76, 76.5, 77, 101, 114, 115		03/18/09	ADOPT: 1962.1 AMEND: 1900, 1962, 1962.1 renumber as 1962.2
			03/10/09	ADOPT: 1160.6 AMEND: 1160.3, 1160.4
			02/26/09	ADOPT: 29.00
			02/05/09	ADOPT: 20.05 AMEND: 20.04
			02/05/09	AMEND: 25.08
			01/20/09	AMEND: 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2708, 2709, 2710
Title 9				
02/06/09	ADOPT: 4000, 4005			
01/07/09	AMEND: 7400			
Title 10			Title 14	
05/12/09	AMEND: 2716.1, 2790.1.5, 2810.5		05/26/09	AMEND: 7.00, 7.50
05/01/09	AMEND: 2699.6603		05/21/09	AMEND: 7.50(b)(178)
03/27/09	AMEND: 2498.6 (Exhibit C)		05/15/09	AMEND: 790, 818.02, 827.02
03/25/09	AMEND: 2661.3, 2661.4, 2662.1		05/14/09	ADOPT: 874.2.5 AMEND: 790, 873.1, 873.2, 873.4, 873.5, 873.7, 874.2, 877.2, 877.3 REPEAL: 873.3
03/23/09	AMEND: 2498.6			
02/26/09	AMEND: 2699.6805		05/13/09	AMEND: 25201
02/23/09	AMEND: 2318.6, 2353.1		05/07/09	AMEND: 25201
02/23/09	AMEND: 2498.6		05/04/09	AMEND: 670.5
02/19/09	AMEND: 5000, 5110, 5111, 5112, 5113, 5114, 5116, 5117 REPEAL: 5119		04/27/09	ADOPT: 749.5
02/05/09	ADOPT: 2308.1, 2308.2, 2308.3		04/08/09	AMEND: 2245, 2320
01/15/09	AMEND: 2699.6707, 2699.6711, 2699.6721, 2699.6723, 2699.6725, 2699.6809		03/18/09	AMEND: 632
01/14/09	AMEND: 2698.100, 2698.200, 2698.201, 2698.206, 2698.300, 2698.301		03/16/09	ADOPT: 20004.1, 20009.1, 20009.2 AMEND: 20000, 20001, 20002, 20003, 20004, 20005, 20008, 20009
01/12/09	AMEND: 2498.5		03/04/09	AMEND: 2000, 2090, 2516, 2530, 2620, 2630, 2660, 2670, 2720, 2730
12/31/08	ADOPT: 2194.50, 2194.51, 2194.52, 2194.53, 2194.54, 2194.55		03/03/09	ADOPT: 27.32 AMEND: 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 27.51, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.51, 28.52, 28.53, 28.54, 28.55, 28.56, 28.57, 28.58
Title 11			03/02/09	AMEND: 791.7(a), Form FG OSPR–1924, Form FG OSPR–1925, Form FG OSPR–1972
05/21/09	AMEND: 1005, 1007, 1008		02/25/09	AMEND: 1038, 1052
04/17/09	AMEND: 30.1		02/23/09	ADOPT: 749.4
04/01/09	ADOPT: 9056, 9057, 9058, 9059, 9060 AMEND: 1018		01/28/09	AMEND: 701
04/01/09	ADOPT: 9050, 9051, 9052, 9053, 9054, 9055 REPEAL: 1002		01/13/09	AMEND: 300
03/30/09	ADOPT: 30.15		01/12/09	ADOPT: 4970.00, 4970.01, 4970.02, 4970.03, 4970.04, 4970.05, 4970.06.1, 4970.06.2, 4970.06.3, 4970.07, 4970.07.1, 4970.07.2, 4970.08, 4970.09, 4970.10, 4970.10.1, 4970.10.2, 4970.10.3, 4970.10.4, 4970.11, 4970.12, 4970.13, 4970.14, 4970.14.1, 4970.14.2, 4970.14.3, 4970.15, 4970.15.1, 4970.15.2, 4970.15.3, 4970.15.4, 4970.16, 4970.17, 4970.18, 4970.19, 4970.19.1, 4970.19.2, 4970.19.3, 4970.19.4, 4970.19.5, 4970.19.6, 4970.20, 4970.21, 4970.22, 4970.23, 4970.23.1, 4970.23.2, 4970.24, 4970.25.1, 4970.25.2, 4970.25.3,
02/18/09	REPEAL: 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327			
02/03/09	ADOPT: 64.7			
01/28/09	AMEND: 51.19			
12/31/08	AMEND: 1005(d)			
Title 12				
02/26/09	ADOPT: 800, 800.1, 801, 802, 803, 804, 805, 806, 807, 808, 809			
01/27/09	AMEND: 501			
01/12/09	AMEND: 503			
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05/22/09	ADOPT: 225.38 AMEND: 225.00, 225.03, 225.06, 225.09, 225.21, 225.35, 225.45, 225.48, 225.54, 225.72			

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12/31/08	AMEND: 957 REPEAL: 957.11, 957.12	01/28/09	AMEND: 950.2
12/29/08	AMEND: 243, 245 REPEAL: 241	01/28/09	ADOPT: 1832.5
Title 15		12/30/08	AMEND: 30195.1
05/12/09	AMEND: 3000, 3190, 3375, 3376.1, 3379	12/26/08	ADOPT: 100501
05/04/09	AMEND: 3335(d)(3)	Title 18	
04/20/09	AMEND: 1004, 1006, 1007, 1008, 1012, 1013, 1018, 1027, 1028, 1029, 1032, 1040, 1044, 1045, 1046, 1055, 1056, 1059, 1063, 1066, 1082, 1101, 1105, 1144, 1151, 1161, 1209, 1217, 1230, 1241, 1243, 1245, 1247, 1262, 1272	05/21/09	AMEND: 25114
04/02/09	ADOPT: 3334 AMEND: 3000	05/12/09	AMEND: 1502
02/05/09	ADOPT: 3077, 3077.1, 3077.2, 3077.3, 3077.4 AMEND: 3000, 3043.6, 3375	04/29/09	AMEND: 1591
02/02/09	ADOPT: 1800, 1806, 1812, 1814, 1830, 1831, 1840, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1856, 1857, 1860, 1866, 1867, 1868, 1870, 1872, 1876, 1878, 1888, 1890, 1892	04/06/09	ADOPT: 25113 AMEND: 25111
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Title 16		03/11/09	AMEND: 1506, 1524
05/20/09	ADOPT: 1815 AMEND: 1886.40	03/11/09	AMEND: 1705
04/28/09	AMEND: 1524	02/05/09	AMEND: 1620
04/27/09	AMEND: 1760	01/02/09	AMEND: 1702.5
04/03/09	AMEND: 3830	Title 20	
03/24/09	ADOPT: 1398.12	04/22/09	ADOPT: 3100, 3101, 3101.5, 3102, 3103, 3104, 3105, 3106, 3107, 3108
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03/04/09	AMEND: 4181	Title 22	
03/04/09	AMEND: 1351.5, 1352	05/21/09	AMEND: 2601-1
03/04/09	ADOPT: 389	04/21/09	AMEND: 51543
03/04/09	AMEND: 998	03/12/09	AMEND: 51517
03/04/09	AMEND: 950.2	03/03/09	ADOPT: 63000.48, 63051, 63052 AMEND: 63000.16, 63000.25, 63000.43, 63000.46, 63000.66, 63000.68, 63000.77, 63010, 63011, 63013, 63020, 63021, 63029, 63030, 63040, 63050, 63055 REPEAL: 63051
03/03/09	AMEND: 305 REPEAL: 306.1	02/04/09	ADOPT: 66260.201, 66260.202, 66273.7, 66273.33.5, 66273.41, 66273.70, 66273.71, 66273.72, 66273.73, 66273.74, 66273.75, 66273.76, and 66273.77 AMEND: 66260.10, 66260.23, 66261.4, 66261.9, 66261.50, appendix X of chapter 11, 66264.1, 66265.1, 66273.1, 66273.2, 66273.3, 66273.4, 66273.5, 66273.6, 66273.8, 66273.9, 66273.30, 66273.31, 66273.32, 66273.33, 66273.34, 66273.35, 66273.36, 66273.37, 66273.38, 66273.39, 66273.40, 66273.51, 66273.52, 66273.53, 66273.54, 66273.55, 66273.56, 66273.60, 66273.61, 66273.62, and 67100.2 REPEAL: 6 66273.7.1, 66273.7.2, 66273.7.3, 66273.7.4, 66273.7.5, 66273.7.6, 66273.7.7, 66273.7.8, 66273.7.9, 66273.7.10, 66273.10, 66273.11, 66273.12, 66273.13, 66273.14, 66273.15,
02/11/09	AMEND: 950.3		
02/03/09	ADOPT: 2068.7		
01/28/09	AMEND: 950.2		
01/28/09	ADOPT: 1832.5		
01/09/09	ADOPT: 2504.1, 2517.5, 2564.1, 2575.5 AMEND: 2537, 2540.6, 2590, 2592.6		
12/30/08	AMEND: 1387		
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04/24/09	AMEND: 30100, 30346.1, 30373		
03/11/09	AMEND: 93119		
02/03/09	ADOPT: 100701		

	66273.16, 66273.17, 66273.18, 66273.19, 66273.20, 66273.21, 66273.41, 66273.70, 66273.80, 66273.81, 66273.82, 66273.83, 66273.84, 66273.85, 66273.86, 66273.87, 66273.88, 66273.89, and 66273.90 Articles Affected: Amend article 3; Adopt new article 4; Renumber old article 4 to article 5; Renumber old article 5 to article 6; Repeal old article 6; Repeal old article 7 and adopt new article 7.	01/22/09	ADOPT: 72038, 72077.1, 72329.1 AMEND: 72077, 72329
		01/15/09	AMEND: 101115
		01/06/09	AMEND: 66270.60, 67450.30
		Title 23	
		05/14/09	ADOPT: 2920
		02/19/09	ADOPT: 3939.35
		02/03/09	AMEND: 3989
		01/07/09	ADOPT: 3939.34
		01/05/09	ADOPT: 3006
		Title 25	
01/29/09	AMEND: 97174	05/22/09	ADOPT: 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216
01/28/09	AMEND: 41508, 41509, 41510, 41511, 41512, 41514, 41515, 41515.1, 41515.2, 41516, 41516.1, 41516.3, 41517, 41517.3, 41517.5, 41517.7, 41518, 41518.2, 41518.3, 41518.4, 41518.5, 41518.7, 41518.8, 41518.9, 41519, 41610, 41611, 41670, 41671, 41672, 41700, 41800, 41811, 41815, 41819, 41823, 41827, 41831, 41832, 41835, 41839, 41844, 41848, 41852, 41856, 41864, 41866, 41868, 41872, 41900, 42000, 42050, 42075, 42110, 42115, 42120, 42125, 42130, 42131, 42132, 42140, 42160, 42180, 42305, 42320, 42321, 42326, 42330, 42400, 42401, 42402, 42403, 42404, 42405, 42406, 42407, 42420, 42700, 42701, 42702, 42703, 42705, 42706, 42707, 42708, 42709, 42710, 42711, 42712, 42713, 42714, 42715, 42716, 42717, 42718, 42719, 42720 REPEAL: 42800, 42801	05/20/09	AMEND: 8217
		05/13/09	ADOPT: 6932 REPEAL: 6932
		05/07/09	ADOPT: 6932 REPEAL: 6932
		02/11/09	ADOPT: 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216
		01/21/09	ADOPT: 1322, 1426, 2426 AMEND: 1000, 1002, 1004, 1005, 1006, 1018, 1020, 1020.1, 1020.6, 1032, 1183, 1210, 1211, 1212, 1216, 1312, 1320, 1333, 1429, 1432, 1438, 1468, 1474, 1504, 1612, 1752, 1756, 2002, 2004, 2005, 2006, 2018, 2183, 2210, 2211, 2212, 2216, 2312, 2327, 2429, 2438, 2474, 2504, 2612, 2752, 2756
		Title 27	
		04/07/09	AMEND: 25705(b)
		02/18/09	AMEND: 20921
		01/05/09	AMEND: 27001
		01/05/09	AMEND: 27000
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		02/09/09	AMEND: 42-721, 42-780, 44-303, 44-307, 44-318, 82-182
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01/23/09	AMEND: 51000.6.1, 51000.8, 51000.16, 51000.20, 51000.20.1, 51000.24.1, 51000.25.2, 51000.30, 51000.50, 51000.51, 51000.52, 51000.53, 51000.55, 51000.60		